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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, July 12, 2011 [CANCELLED]
9 a.m.–12:30 p.m.

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 76, No. 127
Friday, July 1, 2011

OFFICE OF GOVERNMENT ETHICS

5 CFR Parts 2634 and 2635

RINs 3209–AA00 and 3209–AA04

Technical Updating Amendments to Executive Branch Financial Disclosure and Standards of Ethical Conduct Regulations

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule; technical amendments.

SUMMARY: The Office of Government Ethics is updating its executive branch regulation on financial disclosure to reflect the retroactive statutory increase of the reporting thresholds for gifts and travel reimbursements. As a matter of regulatory policy, OGE is also raising the widely attended gatherings nonsponsor gifts exception dollar ceiling under the executive branchwide standards of ethical conduct regulation, but this change is not retroactive.

DATES: The rule is effective July 1, 2011. The amendments to 5 CFR 2634.304 and 2634.907 (as set forth in amendatory paragraphs 2 and 3) are retroactively applicable as of January 1, 2011.

FOR FURTHER INFORMATION CONTACT: Elaine Newton, Attorney-Advisor, Office of Government Ethics; Telephone: 202–482–9300; TTY: 800–877–8339; FAX: 202–482–9237.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics is amending pertinent sections of its executive branchwide ethics regulations on financial disclosure and standards of ethical conduct, as codified at 5 CFR parts 2634 and 2635, in order to update certain reporting and other thresholds.

Increased Gifts and Travel Reimbursements Reporting Thresholds

First, OGE is revising its executive branch financial disclosure regulation at 5 CFR part 2634 applicable as of January 1, 2011 to reflect the increased reporting thresholds for gifts, reimbursements and travel expenses for both the public and confidential executive branch financial disclosure systems. These increases conform to the statutorily mandated public disclosure reporting thresholds under section 102(a)(2)(A) & (B) of the Ethics in Government Act as amended, 5 U.S.C. app. section 102(a)(2)(A) & (B), and are extended to confidential disclosure reporting by OGE's regulation. Under the Ethics Act, the gifts and reimbursements reporting thresholds are tied to the dollar amount for the ''minimal value'' threshold for foreign gifts as the General Services Administration (GSA) periodically redefines it.

In a recent rulemaking, GSA raised ''minimal value'' under the Foreign Gifts and Decorations Act, 5 U.S.C. 7342, to ''$350 or less'' (from the prior level of $335 or less) for the three-year period 2011–2013. See 76 FR 30550–30551(May 26, 2011), revising retroactively to January 1, 2011, the foreign gifts minimal value definition as codified at 41 CFR 102–42.10.

Accordingly, applicable as of that same date, OGE is increasing the thresholds for reporting of gifts and travel reimbursements from any one source in 5 CFR 2634.304 and 2634.907(g) (and as illustrated in the examples following those sections, including appropriate adjustments to gift values therein) of its executive branch financial disclosure regulation to ''more than $350'' for the aggregation threshold for reporting and ''$140 or less'' for the de minimis exception for gifts and reimbursements which do not have to be counted towards the aggregate threshold. As noted, these regulatory increases just reflect the underlying statutory increases effective January 1 of this year.

OGE will continue to adjust the gifts and travel reimbursements reporting thresholds in its part 2634 regulation in the future as needed in light of GSA's redefinition of ''minimal value'' every three years for foreign gifts purposes. See OGE's prior three-year adjustment of those regulatory reporting thresholds, as published at 73 FR 15387–15388 (March 24, 2008) (for 2008–2010, the aggregate reporting level was more than $335, with a $134 or less de minimis exception).

Increased Dollar Ceiling for the Exception for Nonsponsor Gifts of Free Attendance at Widely Attended Gatherings

In addition, OGE is increasing from $335 to $350 the exception ceiling for nonsponsor gifts of free attendance at widely attended gatherings under the executive branch standards of ethical conduct regulation, as codified at 5 CFR 2635.204(g)(2) (and as illustrated in the examples following paragraph (g); a sum total value in one example is also being adjusted accordingly). This separate regulatory change is effective upon publication in the **Federal Register**, on July 1, 2011. As OGE noted in the preambles to the proposed and final rules on such nonsponsor gifts, that ceiling is based in part on the financial disclosure gifts reporting threshold. See 60 FR 31416 (June 15, 1995) and 61 FR 42968 (August 20, 1996). The nonsponsor gift ceiling was last raised in the March 2008 OGE rulemaking noted in the preceding paragraph above. Thus, it is reasonable to again increase the nonsponsor gift ceiling to match the further increase in the gifts/travel reimbursements reporting thresholds. The other requirements for acceptance of such nonsponsor gifts, including an agency interest determination and expected attendance by more than 100 persons, remain unchanged.

Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b) and (d), as Acting Director of the Office of Government Ethics, I find good cause exists for waiving the general notice of proposed rulemaking, opportunity for public comment and 30-day delay in effectiveness as to these technical updating amendments. The notice, comment and delayed effective date provisions are being waived in part because these technical amendments concern matters of agency organization, practice and procedure. Further, it is in the public interest that correct and up-to-date information be contained in the affected sections of OGE's regulations as soon as possible. The increase in the reporting thresholds for gifts and reimbursements is based on a statutory formula and also lessens the reporting burden somewhat. Therefore, that regulatory revision is being made retroactively effective January 1, 2011,

when the change became effective under the Ethics Act.

Regulatory Flexibility Act

As Acting Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this rulemaking will not have a significant economic impact on a substantial number of small entities because it primarily affects Federal employees.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this amendatory rulemaking itself does not contain information collection requirements that require the approval of the Office of Management and Budget.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this final rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local and Tribal governments, in the aggregate, or by the private sector, of $100 million or more (as adjusted for inflation) in any one year.

Congressional Review Act

The Office of Government Ethics has determined that this amendatory rulemaking is a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and will submit a report thereon to the U.S. Senate, House of Representatives and Government Accountability Office in accordance with that law at the same time this rulemaking document is sent to the Office of the Federal Register for publication in the **Federal Register**.

Executive Order 12866

In promulgating these technical amendments, OGE has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. These amendments have not been reviewed by the Office of Management and Budget under that Executive order, since they are not deemed ''significant'' thereunder.

Executive Order 12988

As Acting Director of the Office of Government Ethics, I have reviewed this final amendatory regulation in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

List of Subjects

5 CFR Part 2634

Certificates of divestiture, Conflict of interests, Financial disclosure, Government employees, Penalties, Privacy, Reporting and recordkeeping requirements, Trusts and trustees.

5 CFR Part 2635

Conflict of interests, Executive branch standards of ethical conduct, Government employees.

Approved: June 27, 2011.

Don W. Fox,

Acting Director, Office of Government Ethics.

For the reasons set forth in the preamble, the Office of Government Ethics is amending 5 CFR parts 2634 and 2635 as follows:

PART 2634—EXECUTIVE BRANCH FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE

■ 1. The authority citation for part 2634 continues to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 26 U.S.C. 1043; Pub. L. 101–410, 104 Stat. 890, 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990), as amended by Sec. 31001, Pub. L. 104–134, 110 Stat. 1321 (Debt Collection Improvement Act of 1996); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

Subpart C—Contents of Public Reports

§ 2634.304 [Amended]

■ 2. Section 2634.304 is amended by:
■ A. Removing the dollar amount ''$335'' in paragraphs (a) and (b) and in examples 1 and 4 following paragraph (d) and adding in its place in each instance the dollar amount ''$350'';
■ B. Removing the dollar amount ''$134'' in paragraph (d) and in examples 1 and 2 following paragraph (d) and adding in its place in each instance the dollar amount ''$140''; and
■ C. Removing the dollar amounts ''$170'' and ''$335'' in example 3 following paragraph (d) and adding in their place the dollar amounts ''$180'' and ''$350'', respectively.

Subpart I—Confidential Financial Disclosure Reports

§ 2634.907 [Amended]

■ 3. Section 2634.907 is amended by:
■ A. Removing the dollar amount ''$335'' in paragraphs (g)(1) and (g)(2) and in the example to paragraph (g) and adding in its place in each instance the dollar amount ''$350''; and
■ B. Removing the dollar amount ''$134'' in paragraph (g)(3) and in the example to paragraph (g) and adding in its place in each instance the dollar amount ''$140''.

PART 2635—STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH

■ 4. The authority citation for part 2635 continues to read as follows:

Authority: 5 U.S.C. 7301, 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

Subpart B—Gifts from Outside Sources

§ 2635.204 [Amended]

■ 5. Section 2635.204 is amended by:
■ A. Removing the dollar amount ''$335'' in paragraph (g)(2) and in examples 1 and 2 (in the latter of which it appears twice) following paragraph (g)(6) and adding in its place in each instance the dollar amount ''$350''; and
■ B. Removing the dollar amount ''$670'' in example 2 following paragraph (g)(6) and adding in its place the dollar amount ''$700''.

[FR Doc. 2011–16642 Filed 6–30–11; 8:45 am]

BILLING CODE 6345–03–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

7 CFR Part 3430

[0524–AA61]

Competitive and Noncompetitive Nonformula Federal Assistance Programs—Administrative Provisions for Biomass Research and Development Initiative; Technical Amendments

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Final rule; technical amendments.

SUMMARY: The National Institute of Food and Agriculture (NIFA) published in the **Federal Register** of June 17, 2011, a document adopting as final an interim rule published June 14, 2010, which contained a set of specific administrative requirements for the Biomass Research and Development Initiative (BRDI). This document contains minor changes to those regulations.

DATES: Effective on July 1, 2011.

FOR FURTHER INFORMATION CONTACT: Carmela Bailey, National Program Leader, Plant and Animal Systems, National Institute of Food and Agriculture, U.S. Department of Agriculture, STOP 3356, 1400 Independence Avenue, SW., Washington, DC 20250–2299; Voice: 202–401–6443; Fax: 202–401–4888; E-mail: *cbailey@NIFA.usda.gov.*

SUPPLEMENTARY INFORMATION: On June 14, 2010, NIFA published an interim rule (75 FR 33497) with a 120-day comment period to provide administrative provisions that are specific to the Federal assistance awards made under section 9008(e) of the Farm Security and Rural Investment Act of 2002 (FSRIA), Public Law 107–171 (7 U.S.C. 8108(e)), as amended by section 9001 of the Food, Conservation, and Energy Act of 2008 (FCEA), Public Law 110–246, providing authority to the Secretary of Agriculture and the Secretary of Energy, to establish and carry out a joint Biomass Research and Development Initiative (BRDI) under which competitively awarded grants, contracts, and financial assistance are provided to, or entered into with, eligible entities to carry out research on and development and demonstration of biofuels and biobased products; and the methods, practices, and technologies for the production of biofuels and biobased products. No program specific comments were received. NIFA intended to proceed with the final rule with only minimal changes but published in the **Federal Register** of June 17, 2011, a document adopting as final the interim rule published June 14, 2010. This document amends the rule to include the intended minor changes to those regulations. Sections 3430.700, 3430.701, 3430.702 (definition of ''Advisory Committee''), 3430.705, 3430.707, and 3430.708 are amended to correct or add citations and cross-references. Additionally, section 3430.705 is amended to make minor revisions to the facility cost prohibition for purposes of consistency with other program regulations in 7 CFR part 3430. Finally, section 3430.706 is amended to clarify that the required non-Federal cost-share is a percentage of project cost, not Federal funds awarded.

List of Subjects in 7 CFR Part 3430

Administrative practice and procedure, Agricultural research, Education, Extension, Federal assistance.

Accordingly, 7 CFR part 3430 is amended as follows:

PART 3430—COMPETITIVE AND NONCOMPETITIVE NON-FORMULA FEDERAL ASSISTANCE PROGRAMS—GENERAL AWARD ADMINISTRATIVE PROVISIONS

■ 1. The authority citation for part 3430 continues to read as follows:

Authority: 7 U.S.C. 3316; Pub. L. 106–107 (31 U.S.C. 6101 note).

■ 2. Revise § 3430.700 to read as follows:

§ 3430.700 Applicability of regulations.

The regulations in this subpart apply to the Federal assistance awards made under the program authorized under section 9008 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8108), as amended by section 9001 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246).

■ 3. Amend § 3430.701 by revising the introductory text to read as follows:

§ 3430.701 Purpose.

In carrying out the program, NIFA, in cooperation with the Department of Energy, is authorized to make competitive awards under section 9008(e) of FSRIA (7 U.S.C. 8108(e)) to develop:

* * * * *

■ 4. In § 3430.702, revise the definition of ''Advisory Committee'' to read as follows:

§ 3430.702 Definitions.

* * * * *

Advisory Committee means the Biomass Research and Development Technical Advisory Committee established by section 9008(d) of FSRIA (7 U.S.C. 8108(d)).

* * * * *

■ 5. Amend § 3430.704 by revising paragraph (b) introductory text to read as follows:

§ 3430.704 Project types and priorities.

* * * * *

(b) *Additional Considerations.* Within the technical topic areas described in paragraph (a) of this section, NIFA, in cooperation with DOE, shall support research and development to—

* * * * *

■ 6. Revise § 3430.705 to read as follows:

§ 3430.705 Funding restrictions.

(a) *Facility costs.* Funds made available under this subpart shall not be used for the construction of a new building or facility or the acquisition, expansion, remodeling, or alteration of an existing building or facility (including site grading and improvement, and architect fees).

(b) *Indirect costs.* Subject to § 3430.54, indirect costs are allowable for Federal assistance awards made by NIFA.

(c) *Minimum allocations.* After consultation with the Board, NIFA in cooperation with DOE, shall require that each of the three technical topic areas described in § 3430.704(a) receives not less than 15 percent of funds made available to carry out BRDI.

■ 7. Amend § 3430.706 by revising paragraphs (a) and (b) to read as follows:

§ 3430.706 Matching requirements.

(a) *Requirement for Research and/or Development Projects.* The non-Federal share of the cost of a research or development project under BRDI shall be not less than 20 percent. NIFA may reduce the non-Federal share of a research or development project if the reduction is determined to be necessary and appropriate.

(b) *Requirement for Demonstration and Commercial Projects.* The non-Federal share of the cost of a demonstration or commercial project under BRDI shall be not less than 50 percent.

* * * * *

■ 8. Amend § 3430.707 by revising paragraph (b)(2) to read as follows:

§ 3430.707 Administrative duties.

* * * * *

(b) * * *

(2) Included in the best practices database established under section 1672C(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925e(e)).

■ 9. Amend § 3430.708 by revising paragraph (a) to read as follows:

§ 3430.708 Review criteria.

(a) *General.* BRDI peer reviews of applications are conducted in accordance with requirements found in section 9008 of FSRIA (7 U.S.C. 8108); section 103 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613); and regulations found in title 7 of the Code of Federal Regulations, sections 3430.31 through 3430.37.

* * * * *

Signed at Washington, DC, on June 22, 2011.

Chavonda Jacobs-Young,

Acting Director, National Institute of Food and Agriculture.

[FR Doc. 2011–16256 Filed 6–30–11; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF ENERGY

10 CFR Part 835

Technical Standard DOE–STD–1095–2011, Department of Energy Laboratory Accreditation for External Dosimetry

AGENCY: Office of Health, Safety and Security, Department of Energy.

ACTION: Notification of updated Technical Standard.

SUMMARY: The Department of Energy (DOE or the Department) is issuing Technical Standard DOE–STD–1095–2011, *Department of Energy Laboratory Accreditation for External Dosimetry*, January 2011. This standard provides updated technical criteria for performance testing for, and provides a requirement for onsite quality assurance assessments of, whole body and extremity dosimetry programs in use at DOE sites. The testing and assessment results are used, in part, to determine whether to accredit dosimetry programs in accordance with the DOE Laboratory Accreditation Program (DOELAP). The effective date for the new Technical Standard is April 1, 2011.

FOR FURTHER INFORMATION CONTACT: Steven G. Zobel, CHP, U.S. Department of Energy, Office of Health, Safety and Security, Office of Corporate Safety Analysis, 1000 Independence Ave., SW., Washington, DC 20585, 301–903–2615, or *steve.zobel@hq.doe.gov.*

An electronic copy of this **Federal Register** notice, as well as other relevant DOE documents concerning this subject, is available on a Web page at: *http://www.hss.energy.gov/CSA/CSP/doelap/index.html.*

SUPPLEMENTARY INFORMATION: DOE previously administered its laboratory accreditation program for whole body external dosimetry pursuant to DOE Order 5480.15, *Department of Energy Laboratory Accreditation Program for Personnel Dosimetry,* dated December 14, 1987. At that time, DOELAP used Technical Standards DOE/EH–0027, *Department of Energy Standard for the Performance Testing of Personnel Dosimetry Systems,* December 1986, and DOE/EH–0026, *Handbook for the Department of Energy Laboratory Accreditation Program for Personnel Dosimetry Systems,* December 1986, to evaluate contractor personnel dosimetry programs. DOE/EH–0027 was based on American National Standards Institute (ANSI) N13.11–1983, *American National Standard—Criteria for Testing Personnel Dosimetry Performance,* Pacific Northwest Laboratory PNL–4515, *Criteria for Testing Personnel Dosimetry Performance,* 1984, and comments received during peer review by DOE and DOE contractor personnel. Both DOELAP Technical Standards remained in effect through 2010.

On December 14, 1993, DOE promulgated 10 CFR part 835, *Occupational Radiation Protection,* (58 FR 65458), which included a requirement for DOELAP accreditation for external dosimetry programs. This regulatory requirement led to the cancellation of DOE Order 5480.15. Technical Standard DOE–STD–1095–95, *Department of Energy Laboratory Accreditation Program for Personnel Dosimetry Systems,* was published in December 1995 to establish the criteria for DOELAP accreditation pursuant to 10 CFR 835.402(b). The recent updating of ANSI standards for performance testing whole body dosimeters (ANSI N13.11–2009, *American National Standard for Dosimetry—Personnel Dosimetry Performance—Criteria for Testing*) and extremity dosimeters (ANSI N13.32–2008, *American National Standard—Performance Testing of Extremity Dosimeters*) led DOE to revise its DOELAP dosimetry Technical Standards. In planning the revision, it was decided to make DOE–STD–1095 the primary Technical Standard for accrediting external dosimetry programs by cancelling DOE/EH–0026 and –0027 and incorporating both of the recently updated ANSI standards by reference into the new DOE Technical Standard. Other changes include changing ''Personnel Dosimetry Systems'' to ''External Dosimetry'' in the title of the new Technical Standard, providing for limited retesting, and adding an incentive for obtaining an exemption from a future onsite assessment. The change to the Technical Standard's title was made to better identify the Standard's purpose and does not change the requirement for dosimetry program accreditation provided in 10 CFR 835.402(b). The guidance information in DOE/EH–0026 and –0027 will be updated and published in a supplemental, nonregulatory document.

This Technical Standard is effective on April 1, 2011.

Issued in Washington, DC.

Glenn S. Podonsky,

Chief Health, Safety and Security Officer, Office of Health, Safety and Security.

[FR Doc. 2011–16575 Filed 6–30–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM455; Special Conditions No. 25–438–SC]

Special Conditions: Boeing, Model 747–8 Series Airplanes; Door 1 Extendable Length Escape Slide

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for Boeing Model 747–8 airplanes. These airplanes will have a novel or unusual design feature associated with an extendable length escape slide. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for other novel or unusual design features of Boeing 747–8 airplanes.

DATES: *Effective Date:* August 1, 2011.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, FAA, Airframe and Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW, Renton, Washington 98057–3356; telephone (425) 227–2194; facsimile (425) 227–1232.

SUPPLEMENTARY INFORMATION:

Background

On November 4, 2005, The Boeing Company, PO Box 3707, Seattle, WA, 98124, applied for an amendment to Type Certificate Number A20WE to include the new Model 747–8 series passenger airplane. Boeing later applied for, and was granted, an extension of time for the type certificate, which changed the effective application date to December 31, 2006. The Model 747–8 is a derivative of the 747–400. The Model 747–8 is a four-engine jet transport airplane that will have a maximum takeoff weight of 975,000 pounds, new General Electric GEnx –2B67 engines, and the capacity to carry 605 passengers.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, Boeing must show that the Model 747–8 (hereafter referred as 747–8) meets the applicable provisions of part 25,

Amendments 25–1 through 25–120, plus Amendment 25–127 for § 25.795(a), except for earlier amendments as agreed upon by the FAA. These regulations will be incorporated into Type Certificate No. A20WE after type certification approval of the 747–8.

In addition, the certification basis includes other regulations, special conditions, and exemptions that are not relevant to these special conditions. Type Certificate No. A20WE will be updated to include a complete description of the certification basis for these airplanes.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the 747–8 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model or series that incorporates the same or similar novel or unusual design feature, or should any other model or series already included on the same type certificate be modified to incorporate the same or similar novel or unusual design feature, the special conditions would also apply to the other model or series under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the 747–8 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as defined in § 11.19, are issued under § 11.38, and become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Boeing Model 747–8 will incorporate the following novel or unusual design features: The 747–8 design offers seating capacity on two separate decks, the main deck with a maximum passenger capacity of 495 and the upper deck with a maximum passenger capacity of 110. Section 25.810(a)(1)(iii) requires that after full deployment the emergency escape system assist means must be long enough so that the lower end is self-supporting on the ground and provides safe evacuation of occupants to the ground after collapse of one or more legs of the landing gear. Typically, airplanes have fixed-length slides that meet the above requirements. However, it was not possible to use fixed-length slides for the 747–8 Door 1 because of the difference between normal sill height and the high-sill height associated with collapse of some of the landing gear in an emergency. Some combinations of landing gear collapse could cause the airplane to tip back on its tail. The 747–8 Door 1 escape slide is an extendable length design to meet the gear collapse and tail tip conditions.

Discussion

The regulations governing the certification of the 747–8 do not adequately address the certification requirements for an extendable length escape slide. The only reference to extendable length escape slides in Technical Standard Order (TSO) C69c, Emergency Evacuation Slides, Ramps, Ramp/Slides, and Slide/Rafts, is in the inflation time requirement section. The requirements of § 25.801(a)(1)(iii) for other airplanes have been addressed by a single length escape slide. However, for the 747–8 Door 1, it was not possible to have a single length escape slide because of the extreme difference in sill heights between normal sill height and high-sill height associated with collapse of some of the landing gear, and the additional case of the airplane tipping back on its tail. For Door 1, the normal sill height is approximately 187 inches, and the high-sill height is approximately 346 inches.

The design of the extendable length escape system has an approximately 12 foot long extension packed at the toe end of the escape slide. During normal operation, the extension portion remains packed at the toe end. The airplane is equipped with an electronic sensor that evaluates the attitude of the airplane, and determines if the extendable portion is needed. When the extended length is needed, the system sends a signal to an electronic sign on the door to indicate to the flight attendant that the extendable length of the slide needs to be inflated. The extendable length inflation system is activated by pulling on a separate inflation handle located on the right side of the slide girt.

The Airbus A380 airplane has an extendable length slide and the FAA issued Special Conditions Number 25–323–SC to address the installation of the extendable length escape slide in that airplane. These previously issued special conditions provide a starting point for developing special conditions for the 747–8 airplane, which consider and evaluate the unique aspects of this airplane's design.

The extension is intended only for use at high-sill heights. A typical fixed-length slide operating at high-sill height does not satisfy all of the performance requirements of § 25.810, but its variations in performance are understood and largely predictable. Certain performance criteria are valid regardless of sill height, while other aspects of performance can be expected to decline at higher sill heights. With an extendable slide, there is a step change in configuration and potentially a change in performance. Therefore, special conditions are needed to ensure acceptable performance in the extended mode.

Section 25.810 specifies the basic performance requirements for escape slides, including wind testing, repeatability testing, and testing at adverse sill heights. Section 25.1309(a) requires systems to perform under foreseeable operating conditions, such as extreme temperatures, and demonstrate that the system design is appropriate for its intended function. Standards for the equipment itself are in TSO–C69c and contribute to a satisfactory installation.

Typically, wind tests are only conducted on fixed-length slides at normal sill height. Since the regulations require that the escape slides have the capability of being deployed in 25-knot winds directed from the most critical angle, escape slides usually exceed 25-knot performance at other than the critical angle. The same is expected to be true of the slide in its extended mode, but some reduction in the required wind velocity is appropriate since the slide will be in an abnormal condition. Available data indicate that the capability of being deployed in 22-knot winds is appropriate to cover the slide in its extended mode at normal sill height. This corresponds to roughly 75% of the wind energy required for the slide in its normal attitude and will ensure that the slide can function in its extended mode at least as well as a fixed-length slide under similar abnormal conditions.

These special conditions also specify a rate for passenger evacuation that is consistent with that of fixed-length escape slides.

Discussion of Comments

Notice of proposed special conditions No. 25–11–12–SC for Boeing Model 747–8 airplanes was published in the **Federal Register** on May 10, 2011 (76 FR 26957). No comments were received and the special conditions are adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to Boeing Model 747–8 airplanes. Should Boeing apply at a later date for a change to the

type certificate to include another model incorporating the same novel or unusual design features, these special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features of Boeing Model 747–8 airplanes. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 747–8 airplanes.

1. The extendable escape slide must receive Technical Standard Order (TSO) C69c or latest TSO authorization published at the time of TSO application for the Door 1 Slide.

2. In addition to the requirements of § 25.810(a)(1)(iii) for usability in conditions of landing gear collapse, the deployed escape slide in the extended mode must demonstrate an evacuation rate of 45 persons per minute per lane at the sill height corresponding to activation of the extension.

3. In lieu of the requirements of § 25.810(a)(1)(iv), the escape slide with the extendable section activated must be capable of being deployed in 22-knot winds directed from the critical angle, with the airplane on all its landing gear, with the assistance of one person on the ground. Two deployment scenarios must be addressed as follows:

(a) Extendable section is activated during the inflation time of the basic slide and,

(b) Extendable section is activated after the basic slide is completely inflated.

4. Pitch sensor tolerances and accuracy must be taken into account when demonstrating compliance with § 25.1309(a) for the escape slide in both extended and unextended modes.

5.(a) There must be a ''slide extension'' warning such that the cabin crew is immediately made aware of the need to deploy the extendable section of the slide. The ability to provide such a warning must be available for ten minutes after the airplane is immobilized on the ground.

(b) There must be a positive means for the cabin crew to determine that the extendable portion of the slide has been fully erected.

6. Whenever passengers are carried on the main deck of the airplane, there must be a cabin crewmember stationed on each side of the airplane located near each Door 1 Exit. This special condition must be included in the airplane flight manual as a limitation.

Issued in Renton, Washington, on June 22, 2011.

KC Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2011–16507 Filed 6–30–11; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 418

[Docket No. SSA–2009–0078]

RIN 0960–AH06

Amendments to Regulations Regarding Major Life-Changing Events Affecting Income-Related Monthly Adjustment Amounts to Medicare Part B Premiums

AGENCY: Social Security Administration (SSA).

ACTION: Final rule.

SUMMARY: This final rule adopts, without change, the interim final rule with request for comments we published in the **Federal Register** on July 15, 2010 at 75 FR 41084. The interim final rule concerned what we consider major life-changing events for the Medicare Part B income-related monthly adjustment amount (IRMAA) and what evidence we require to support a claim of a major life-changing event. This final rule allows us to respond appropriately to circumstances brought about by the current economic climate and other unforeseen events, as described below.

DATES: The interim final rule with request for comments published on July 15, 2010 is confirmed as final effective July 1, 2011.

FOR FURTHER INFORMATION CONTACT: Craig Streett, Office of Income Security Programs, Social Security Administration, 2–R–24 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–9793. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION:

Background

The interim final rule concerned what we consider major life-changing events for the Medicare Part B IRMAA and what evidence we require to support a claim of a major life-changing event.

Medicare Part B is a voluntary medical insurance program that provides coverage for services such as physicians care, diagnostic services, and medical supplies. A beneficiary enrolled in Medicare Part B pays monthly premiums, deductibles, and co-insurance associated with covered services. The Centers for Medicare & Medicaid Services (CMS) promulgates rules and regulations about the Medicare program, including the standard monthly premium. We determine and deduct the amount of certain Medicare Part B premiums from beneficiaries' Social Security benefits and make rules and regulations necessary to carry out these functions.

The Federal Government subsidizes the cost of Medicare Part B medical coverage. However, beneficiaries with modified adjusted gross incomes (MAGI) above a specified threshold must pay a higher percentage of their cost than those with MAGIs below the threshold.[1] We refer to this subsidy reduction as an IRMAA. CMS determines and publishes the annual MAGI threshold and ranges. The Internal Revenue Service (IRS) provides us with MAGI information.

We use MAGI and Federal income tax filing status for the tax year two years before the effective year to determine whether a beneficiary must pay an IRMAA, and if so, how much.[2] If information is not yet available for the tax year two years before the effective year, we will use information from the tax year three years before the effective year until the later information becomes available. A beneficiary who experiences a major life-changing event may request that we use a more recent tax year to make a new IRMAA determination.

If a beneficiary provides evidence that the qualifying major life-changing event significantly reduced his or her MAGI, we will determine the IRMAA based on data from a more recent tax year.[3] We define a significant reduction in MAGI

[1] MAGI is defined in 42 U.S.C. 1395r(i)(4). The threshold amount is defined in 42 U.S.C. 1395r(i)(2).

[2] MAGI ranges are established in 42 U.S.C. 1395r(i)(3), (5). The MAGI dollar amounts listed in 1395r(i)(3) may increase annually based on changes in the Consumer Price Index under 42 U.S.C. 1395r(i)(5).

[3] 20 CFR 418.1201.

as any change that results in a reduction or elimination of IRMAA.[4] The Social Security Act provides that major life-changing events include marriage, divorce, death of spouse, or other events specified in our regulations.[5]

Prior to the publication of our interim final rule, our regulations identified only the following additional events as major life-changing events: (1) The termination of a marriage, (2) annulment of a marriage, (3) reduced hours or stoppage of work, (4) reductions in income due to certain losses of income-producing property, 5) a reduction in or loss of income due to a scheduled cessation of a pension, and 6) a reduction in or loss of income from an insured pension plan due to termination or reorganization of the plan.[6] Our regulations also provided that we did not consider events other than those described in 20 CFR 418.1205 to be major life-changing events. In addition, under those regulations, we did not consider events that affected expenses but not income, or that resulted in the loss of dividend income, to be major life-changing events.[7]

We have added a new paragraph (g) to 20 CFR 418.1205 to include the receipt of certain settlement payments from an employer or former employer in the list of major life-changing events. To qualify as a major life-changing event, a settlement payment received by a beneficiary or the spouse of a beneficiary must be the result of an employer's or former employer's closure, bankruptcy, or reorganization. This change allows a beneficiary to request that we base the IRMAA on the MAGI from a more recent tax year.

We also have revised 20 CFR 418.1205(e) to include the loss of investment property as a result of fraud or theft due to a criminal act by a third party.

We have also made several other changes to this section of our regulations. First, we have specifically provided in final section 418.1205(e) that the beneficiary's spouse may not direct the loss of income-producing property. Previously, our regulations stated that the loss could not be at the direction of the beneficiary. We amended our regulations to include both the beneficiary and spouse.

Second, we have revised section 418.1205(e) to clarify that the loss of income-producing property due to the ordinary risk of investment is not a major life-changing event. In some cases, beneficiaries and adjudicators have misinterpreted our current regulations in this regard.

We have made a similar change to 20 CFR 418.1210(b) to clarify that we do not consider events that result in the loss of dividend income because of the ordinary risk of investment to be major life-changing events.

We have replaced ''insured pension plan'' with ''employer's pension plan'' in 20 CFR 418.1205(f). Previously, our regulations provided that ''a reduction in or loss of income from an insured pension plan due to termination or reorganization of the pension plan or a scheduled cessation of pension'' qualified as a major life-changing event.[8] This language change qualifies both insured and uninsured pension plans.

We also have revised sections 418.1205(e) and (f) and 418.1255(e) and (f) to remove the wording that required a reduction in or loss of income from these life-changing events. The change made the wording of the revised subsections consistent with that of the subsections explaining other life-changing events found in 20 CFR 418.1205 and 20 CFR 418.1255.

Required Evidence

We also revised 20 CFR 418.1255 to clarify the type of evidence we require when a beneficiary asks us to use a more recent tax year to calculate an IRMAA based on certain changes in circumstance. If a beneficiary or his or her spouse experiences a loss of income-producing property due to criminal fraud or theft by a third party, we require proof of the conviction, such as a court document, and evidence of loss. If a beneficiary or his or her spouse experiences a scheduled cessation, termination, or reorganization of an employer's pension plan, we require evidence documenting the change in or loss of the pension. If a beneficiary or his or her spouse receives a settlement from an employer or a former employer because of the employer's closure, bankruptcy, or reorganization, we require evidence documenting the settlement and the reason(s) for the settlement. These changes make it easier for beneficiaries to meet their burden of proving that they have experienced a major life-changing event.

Technical Revisions

We have revised paragraph (d) of 20 CFR 418.1230 and paragraphs (c)(2) and (3) of 20 CFR 418.1265 to reflect the addition of new paragraph 418.1205(g), which concerns the receipt of certain settlements as life-changing events, as discussed above.

Public Comments

On July 15, 2010, we published an interim final rule with request for comments in the **Federal Register** at 75 FR 41084 and provided a sixty-day comment period. We received one comment from a member of the public. We carefully considered the concerns expressed in this comment but did not make any changes to the final rule.

We have summarized the commenter's view and have responded to the significant issues raised by the commenter that are within the scope of the interim final rule.

Comment: The commenter believes that we are too selective in what we consider a major life-changing event, ignoring other possible circumstances where an individual might experience an event that would have a major impact on his or her financial situation. Specifically, the commenter discussed a scenario in which an individual's long-term retirement income includes dividends from shares of a company that is later sold, forcing the individual to redeem that stock and experience a one-time gain that he or she must rely on for retirement. The commenter believes that the primary purpose of the MAGI is to require individuals with consistently higher incomes to pay higher premiums for their Medicare coverage. The commenter suggested that we apply MAGI only when the threshold is reached consistently, for example, in two out of three successive years.

The commenter also expressed concern about our revision to 20 CFR 418.1210(b). The commenter believed that using the phrase ''because of the ordinary risk of investment'' to qualify the type of dividend income loss not considered a major life-changing event suggests that any dividend loss not due to ordinary risk of investment should, in turn, qualify as a major life-changing event.

Response: We believe that the commenter was writing about the IRMAA and mistakenly referred to MAGI. We respond accordingly.

We may grant a request to use a more recent taxable year only if the individual's MAGI for that year is significantly less than the income for the normally applicable year due to a major life changing event. The Act requires that we determine whether IRMAA applies to an individual on an annual basis. We base each annual determination on a beneficiary's income from the specific tax year identified in section 1839(i)(4)(B) of the Act, which is generally the tax year from two years prior. Thus, we are unable to make

[4] 20 CFR 418.1215.

[5] 42 U.S.C. 1395r(i)(4)(C)(ii)(II).

[6] 20 CFR 418.1205.

[7] 20 CFR 418.1210.

IRMAA determinations based on a beneficiary's income for two out of three successive years. However, because we make determinations annually, a beneficiary will not be subject to an IRMAA in consecutive years unless the MAGI amount used is above the threshold in consecutive years. A one-time increase in MAGI should affect a beneficiary's IRMAA for only one year.

Additionally, the changes made to 20 CFR 418.1210 in the interim final rule help address the scenario discussed by the commenter. In the scenario, an individual received a one-time gain in income due to a forced sale of stock, but experienced a loss of dividend income in subsequent years because of the loss of the stock. The changes we made to 20 CFR 418.1210 clarify that we do not consider events that result in the loss of dividend income to be major life-changing events if the reasons for such loss are due to the ordinary risk of investment. Conversely, a loss of income-producing financial securities, if the circumstances causing the loss are truly beyond a beneficiary's or his or her spouse's control and do not involve the ordinary risk of investment, may qualify as a major life-changing event in the form of a loss of income-producing property under 20 CFR 418.1205(e).

Accordingly, the interim final rule remains unchanged and we are adopting it as final.

Regulatory Procedures

Executive Order 12866 as Supplemented by Executive Order 13563

We have consulted with the Office of Management and Budget (OMB) and determined that this final rule meets the criteria for a significant regulatory action under Executive Order 12866 as supplemented by Executive Order 13563. Thus, the final rule was reviewed by OMB.

Regulatory Flexibility Act

We certify that these final rules will not have a significant economic impact on a substantial number of small entities, because they affect individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

OMB previously approved the new public reporting requirements posed by this rule under a separate Information Collection Request (OMB No. 0960–0735). We are therefore not seeking OMB approval for these requirements here under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 93.774 Medicare Supplementary Medical Insurance; 96.002 Social Security—Retirement Insurance.)

List of Subjects in 20 CFR Part 418

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI), Medicare subsidies.

Michael J. Astrue,

Commissioner of Social Security.

Accordingly, the interim rule amending 20 CFR chapter III, part 418, subpart B that was published at 75 FR 41084 on July 15, 2010, is adopted as a final rule without change.

[FR Doc. 2011–16526 Filed 6–30–11; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

[Docket No. FDA–2011–N–0003]

Oral Dosage Form New Animal Drugs; Amprolium

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an original abbreviated new animal drug application (ANADA) filed by Cross Vetpharm Group Ltd. The ANADA provides for the use of amprolium soluble powder as an aid in the treatment and prevention of coccidiosis in calves.

DATES: This rule is effective July 1, 2011.

FOR FURTHER INFORMATION CONTACT: John K. Harshman, Center for Veterinary Medicine (HFV–170), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8197, e-mail: *john.harshman@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Cross Vetpharm Group Ltd., Broomhill Rd., Tallaght, Dublin 24, Ireland, filed ANADA 200–464 for the use of AMPROMED (amprolium) for Calves, a water-soluble powder used as an aid in the treatment and prevention of coccidiosis caused by *Eimeria bovis* and *E. zuernii.* Cross Vetpharm Group Ltd.'s AMPROMED for Calves is approved as a generic copy of Huvepharma AD's CORID (amprolium) 20% Soluble Powder, approved under NADA 33–165. The ANADA is approved as of May 23, 2011, and the regulations in 21 CFR 520.100 are amended to reflect the approval.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 2. In § 520.100, add paragraph (b)(4) to read as follows:

§ 520.100 Amprolium.

* * * * *

(b) * * *

(4) No. 061623 for use of product described in paragraph (a)(2) of this section as in paragraph (d)(2) of this section.

* * * * *

Dated: June 24, 2011.

Bernadette Dunham,

Director, Center for Veterinary Medicine.

[FR Doc. 2011–16501 Filed 6–30–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

30 CFR Part 250

Office of Natural Resources Revenue

30 CFR Parts 1204, 1206, 1218, 1241, and 1290

[Docket No. ONRR–2011–0015]

RIN 1012–AA06

Reorganization of Title 30, Code of Federal Regulations

AGENCY: Bureau of Ocean Energy Management, Regulation and Enforcement; Office of Natural Resources Revenue, Interior.

ACTION: Correcting amendment to final rule.

SUMMARY: The Office of Natural Resources Revenue (ONRR) published a rule in the **Federal Register** on October 4, 2010, announcing that the Minerals Revenue Management Program (MRM) of the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) (formerly known as the Minerals Management Service (MMS)) was renamed the Office of Natural Resources Revenue by the Secretary of the Interior and was separated from BOEMRE and transferred to the supervision of the Assistant Secretary for Policy, Management and Budget. In the rule, ONRR also announced the reorganization of title 30 of the Code of Federal Regulations (30 CFR) resulting from the division of BOEMRE into two separate agencies. The rule removed certain regulations from chapter II in 30 CFR, which pertains to BOEMRE and recodified them in new chapter XII, which pertains to ONRR. This document corrects the rule published on October 4, 2010.

DATES: This rule is effective on July 1, 2011.

FOR FURTHER INFORMATION CONTACT: For questions on technical issues, contact Amy White, Petroleum Engineer, BOEMRE, Regulations & Standards Branch, 381 Elden Street, MS 4024, Herndon, VA 20171; telephone (703) 787–1665; or e-mail *Amy.White@boemre.gov*, or Armand Southall, Regulatory Specialist, ONRR, PMB, P.O. Box 25165, MS 61013B, Denver, Colorado 80225–0165; telephone (303) 231–3221; or e-mail *Armand.Southall@onrr.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The rule published in the **Federal Register** on October 4, 2010 (75 FR 61051), omitted a few technical corrections in 30 CFR parts 1204, 1206, and 1218. This document corrects those omissions. As explained below, this document also clarifies BOEMRE's authority to utilize the civil penalty provisions of the Federal Oil and Gas Royalty Management Act of 1982, 30 U.S.C. 1701 *et seq.* (FOGRMA). This rule makes only non-substantive, technical changes to existing regulations which have no effect on the rights, obligations, or interests of affected parties. Because (1) the provisions of this rule pertain solely to the organization and codification of existing rules and related technical corrections and (2) clarifying BOEMRE's FOGRMA civil penalty authority will avoid unnecessary confusion and challenge, the Department for good cause finds that notice and comment on this rule are unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B). Furthermore, because this document qualifies as a ''rule[ ] of agency organization, procedure, or practice,'' 5 U.S.C. 553(b)(A), this document, in any event, is exempt from the notice and comment requirements of 5 U.S.C. 553(b).

Because this rule makes no changes to the legal obligations or rights of non-governmental entities, the Department further finds that good cause exists under 5 U.S.C. 553(d)(3) to make this rule effective immediately upon publication in the **Federal Register** rather than 30 days after publication.

The October 4, 2010, **Federal Register** notice stated that the rule was a ''direct final rule.'' It noted that ''[t]his direct final rule does not make any substantive changes to the regulations or requirements in 30 CFR. It merely moves ONRR's current regulations to a new chapter XII in 30 CFR and makes technical corrections to position titles, agency names, and acronyms.'' As a non-substantive rule which simply moved the then-current regulations to a new chapter in the Code of Federal Regulations and made corresponding technical changes to terminology (such as changing the references to agency names), the October 4, 2010, rule qualifies as a ''rule[ ] of agency organization, procedure, or practice[.]'' 5 U.S.C. 553(b)(A). It was therefore exempt from the notice and comment provisions of 5 U.S.C. 553(b).

Nevertheless, the agency requested comments on the reorganization of the rules. The comments received pointed out a few technical errors in the October 4, 2010, rule which are corrected in this rule.

II. Comments on the October 4, 2010, Rule

The Department received comments on the rule from one member of the petroleum industry. These comments are analyzed and discussed below.

A. Specific Comments on 30 CFR Part 1206—Product Valuation, Subpart C—Federal Oil and Subpart D—Federal Gas

1. § 1206.108 Does ONRR protect information I provide?

2. §§ 1206.152(l) Valuation standards—unprocessed gas and 1206.153(l) Valuation standards—processed gas.

Public comments: The petroleum industry member commented that the regulations for the royalty valuation of oil, unprocessed gas, and processed gas production should be modified to ensure that the submitter's information held by both agencies continues to have the same level of protection from disclosure to third parties.

Department of the Interior (DOI) Response: The ONRR, not BOEMRE, collects documents and information for royalty valuation purposes under section 103 of FOGRMA, 30 U.S.C. 1713, and its implementing regulations. Because ONRR, not BOEMRE, is responsible for keeping the documents it collects under that authority confidential to the extent permitted by law, there is no need to either add BOEMRE to ONRR regulations or amend BOEMRE regulations.

B. Specific Comments on 30 CFR Part 1218—Collection of Monies and Provision for Geothermal Credits and Incentives, Subpart D—Oil, Gas and Sulfur, Offshore

1. § 1218.152 Fishermen's Contingency Fund.

Public comments: The petroleum industry member commented that the regulations must be modified to reflect the differing responsibilities for the two new agencies and the limits of ONRR's functions, and a corresponding change would need to be included in BOEMRE regulations remaining in chapter II.

DOI Response: Under 50 CFR 296.3(b)(2), ONRR, representing the Secretary of the Interior, not BOEMRE, has the authority to issue assessments and collect payments for, and deposit payments into, the Fishermen's Contingency Fund. Therefore, the Department will not revise § 1218.152.

2. § 1218.154 Effect of suspensions on royalty and rental.

Public comments: The petroleum industry member commented that the

references in this section to the ''Regional Supervisor'' are to a BOEMRE official, not an ONRR official, and therefore should be properly identified.

DOI Response: The Department agrees that under the suspension rules at 30 CFR 250.173(a), the ''Regional Supervisor'' is a BOEMRE official. Therefore, for clarification purposes, the Department will add ''BOEMRE'' to the title of ''Regional Supervisor'' in § 1218.154.

C. Specific Comments on 30 CFR Part 219—Distribution and Disbursement of Royalties, Rentals, and Bonuses, Subpart D—Oil and Gas, Offshore

1. § 219.416 How will the qualified OCS revenues be allocated to coastal political subdivisions within the Gulf producing States?

2. § 219.418 When will funds be disbursed to Gulf producing States and eligible coastal political subdivisions?

Public comments: The petroleum industry member commented that §§ 219.416 and 219.418 of the existing subpart D in 30 CFR part 219 refer to revenue disbursement functions that should be ONRR's responsibility. Also, the petroleum industry member commented that, if the disbursement function will be the responsibility of ONRR, then this subpart must be amended to reflect the different responsibilities of BOEMRE and ONRR with regard to calculation and then disbursement of qualified OCS revenues to coastal states.

DOI Response: The Department agrees that, for clarification purposes, the BOEMRE rules at 30 CFR 219.416 and 219.418 should distinguish between BOEMRE's and ONRR's responsibilities. At this time, BOEMRE is preparing proposed revisions to its regulations in 30 CFR part 219 and will address the commenter's concern in that separate rulemaking effort.

D. Specific Comments on 30 CFR Part 1220—Accounting Procedures for Determining Net Profit Share Payment for Outer Continental Shelf Oil and Gas Leases

Public comments: The petroleum industry member commented that determination of how a net profit share will be calculated should be the responsibility of the leasing agency, BOEMRE, as opposed to the revenue collection agency, ONRR. Also, the petroleum industry member commented that the auditing function could be transferred to ONRR, and the rules should be clear as to how responsibility for audit functions will be divided.

DOI Response: Under the Outer Continental Shelf Lands Act of 1953 (OCSLA), 43 U.S.C. 1331 *et seq.,* FOGRMA section 101(a) and (b), 30 U.S.C. 1711(a) and (b), and Departmental delegations, including applicable Secretarial Orders, ONRR, representing the Secretary of the Interior, not BOEMRE, has the authority to determine the calculation and audit of the lessee's net profit share payments. Therefore, the Department will not revise 30 CFR part 1220.

E. Specific Comments on 30 CFR Part 1241—Penalties

Public comments: The petroleum industry member commented that some of the activities for which ''knowing or willful'' penalties may be assessed under these regulations are BOEMRE functions that are not the responsibility of ONRR.

DOI Response: FOGRMA section 109, 30 U.S.C. 1719, contains some civil penalty provisions, which pertain exclusively to royalty (and therefore come within ONRR's delegation of authority), others which pertain exclusively to leasing and operations (and therefore come within BOEMRE's delegation of authority), and still others which pertain to both (and therefore come within the delegations of authority for both ONRR and BOEMRE). The October 4, 2010, rule inadvertently transferred all of the implementing civil penalty regulations from 30 CFR chapter II to chapter XII. This transfer could cause confusion regarding BOEMRE's ability to exercise authority possessed by its predecessor component within the former MMS, which BOEMRE currently possesses by delegation from the Secretary of the Interior.

This rule corrects this situation by restoring to 30 CFR chapter II the civil penalty regulations, currently found in 30 CFR chapter XII part 1241, which pertain to offshore leasing and operations violations. The penalty provisions that pertain to both royalty and leasing and operations violations will be restored to BOEMRE rules, but also remain in ONRR rules. Thus, the provisions at 30 CFR 1241.50 through 1241.56, 1241.60(a)(2) and (b)(1), 1241.61 through 1241.70, 1241.71(b), and 1241.72 through 1241.80 will be essentially duplicated in the BOEMRE rules as 30 CFR 250.1450 through 250.1480, with appropriate technical changes such as changing the reference to ONRR in several section headings to BOEMRE and removing the reference to Indian leases in new § 250.1451(a). The provisions that pertain exclusively to leasing and operations violations will be removed from ONRR rules and put into BOEMRE rules. Thus, the current 30 CFR 1241.60(a)(3), (b)(2), and (b)(3) will be removed from ONRR rules and recodified as 30 CFR 250.1460(a)(2), (b)(2), and (b)(3), respectively. The current 30 CFR 1241.60(a)(1), which deals exclusively with royalties and is solely within ONRR's delegated enforcement authority, will remain in the ONRR rules and will have no counterpart in the BOEMRE rules. Like 30 CFR 1241.60(a)(1), 30 CFR 1241.71(a) is inapplicable to BOEMRE because violations of offshore leasing or operations orders or regulations do not result in underlying underpayments or unpaid debts (excepting civil penalties), which could incur interest. Therefore, 30 CFR 1241.71(a) will not have a counterpart carried over into BOEMRE regulations. Finally, conforming changes have been made to 30 CFR 250.1455(b)(2) and 250.1463(b)(2) to reflect the fact that the bonding and financial solvency requirements of 30 CFR part 1243, subparts B and C, have been duplicated in the same subpart, subpart N of part 250, as the civil penalty regulations.

This rule also duplicates in BOEMRE regulations certain provisions regarding bonding and demonstration of financial solvency which are currently in ONRR regulations. These provisions are found at 30 CFR part 1243, subparts B and C, and are duplicated, with minor conforming changes, in this rule in 30 CFR 250.1490 through 250.1497. They specify the process by which a party appealing a Notice of Non-Compliance or Notice of Civil Penalty may post a bond or demonstrate financial solvency to stay accrual of civil penalties under 30 CFR 250.1455(b)(2) or 250.1463(b)(2). These provisions also specify the methodology by which BOEMRE will evaluate the sufficiency of a bond amount or demonstration of financial solvency.

These provisions are identical to those found at 30 CFR part 1243, subparts B and C, with one minor exception and several conforming changes. The exception is that the new 30 CFR 250.1496(c)(2)(i) is modified to require that payments be made by Electronic Funds Transfer (EFT). This change is made to conform to 30 CFR 250.126, which requires that fees paid to BOEMRE be made by EFT.

Duplicating these provisions in BOEMRE regulations will clarify that these processes apply to appeals of BOEMRE civil penalty orders issued under FOGRMA. Duplicating these regulations is not a substantive change, but rather carries over to BOEMRE regulations authorities which already exist and are an integral part of the FOGRMA civil penalty system.

This rule does not change the civil penalty authorities assigned to ONRR or BOEMRE. It does not change the procedures by which those authorities are implemented. It merely revises the references in the regulations to conform to those in current Secretarial delegations. It has no effect on the rights, obligations, or interests of affected parties. It affects solely the organization, procedure, and practice of the agencies.

III. Change of Reference to Director, Bureau of Indian Affairs

The appeals regulations in 30 CFR part 1290 provide that appeals of decisions involving reporting and payment obligations for Indian leases are decided by the Deputy Commissioner of Indian Affairs. The position of Deputy Commissioner of Indian Affairs was abolished upon the creation of the position of Director, Bureau of Indian Affairs, on April 21, 2003. The role of deciding appeals has since been performed by the Director, Bureau of Indian Affairs. This rule recognizes this by changing the current reference to the Deputy Commissioner of Indian Affairs to the Director, Bureau of Indian Affairs. Changing this reference simply reflects an internal organizational change effected 8 years ago within the Department.

List of Subjects

30 CFR Part 250

Administrative practice and procedure, Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Mineral royalties, Oil and gas exploration, Penalties, Pipelines, Public lands—mineral resources, Public lands—right-of-way, Reporting and recordkeeping requirements, Sulfur.

30 CFR Part 1204

Accounting and auditing relief, Barrels of oil equivalent (BOE), Continental shelf, Federal lease, Marginal property, Mineral royalties, Royalty prepayment, Royalty relief.

30 CFR Part 1206

Coal, Continental shelf, Geothermal energy, Government contracts, Indians—lands, Mineral royalties, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 1218

Continental shelf, Electronic funds transfers, Geothermal energy, Indians—lands, Mineral royalties, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 1241

Administrative practice and procedure, Continental Shelf, Government contracts, Indians—lands, Mineral royalties, Oil and gas exploration, Penalties, Public lands—mineral resources, Sulfur.

30 CFR Part 1290

Administrative practice and procedure.

Dated: June 28, 2011.

David J. Hayes,

Deputy Secretary for Department of the Interior.

Accordingly, 30 CFR parts 250, 1204, 1206, 1218, 1241, and 1290 are corrected by making the following amendments:

CHAPTER II—BUREAU OF OCEAN ENERGY MANAGEMENT, REGULATION, AND ENFORCEMENT, DEPARTMENT OF THE INTERIOR

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

■ 1. Revise the authority citation for part 250 to read as follows:

Authority: 30 U.S.C. 1751; 31 U.S.C. 9701; 43 U.S.C. 1334.

Subpart N—Outer Continental Shelf Civil Penalties

■ 2. Revise the heading of subpart N to read as set forth above.

■ 3. Add the following undesignated center heading before § 250.1400 in the Table of Contents for part 250, to read as follows:

Outer Continental Shelf Lands Act Civil Penalties

■ 4. Add the following undesignated center headings and §§ 250.1450 through 250.1456, 250.1460 through 250.1464, 250.1470 through 250.1477, 250.1480, 250.1490 through 250.1491, and 250.1495 through 250.1497 after § 250.1409 in the Table of Contents for part 250 to read as follows:

Federal Oil and Gas Royalty Management Act Civil Penalties Definitions

250.1450 What definitions apply to this subpart?

Penalties After a Period To Correct

250.1451 What may the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) do if I violate a statute, regulation, order, or lease term relating to a Federal oil and gas lease?
250.1452 What if I correct the violation?
250.1453 What if I do not correct the violation?
250.1454 How may I request a hearing on the record on a Notice of Noncompliance?
250.1455 Does my request for a hearing on the record affect the penalties?
250.1456 May I request a hearing on the record regarding the amount of a civil penalty if I did not request a hearing on the Notice of Noncompliance?

Penalties Without a Period To Correct

250.1460 May I be subject to penalties without prior notice and an opportunity to correct?
250.1461 How will BOEMRE inform me of violations without a period to correct?
250.1462 How may I request a hearing on the record on a Notice of Noncompliance regarding violations without a period to correct?
250.1463 Does my request for a hearing on the record affect the penalties?
250.1464 May I request a hearing on the record regarding the amount of a civil penalty if I did not request a hearing on the Notice of Noncompliance?

General Provisions

250.1470 How does BOEMRE decide what the amount of the penalty should be?
250.1471 Does the penalty affect whether I owe interest?
250.1472 How will the Office of Hearings and Appeals conduct the hearing on the record?
250.1473 How may I appeal the Administrative Law Judge's decision?
250.1474 May I seek judicial review of the decision of the Interior Board of Land Appeals?
250.1475 When must I pay the penalty?
250.1476 Can BOEMRE reduce my penalty once it is assessed?
250.1477 How may BOEMRE collect the penalty?

Criminal Penalties

250.1480 May the United States criminally prosecute me for violations under Federal oil and gas leases?

Bonding Requirements

250.1490 What standards must my BOEMRE-specified surety instrument meet?
250.1491 How will BOEMRE determine the amount of my bond or other surety instrument?

Financial Solvency Requirements

250.1495 How do I demonstrate financial solvency?
250.1496 How will BOEMRE determine if I am financially solvent?
250.1497 When will BOEMRE monitor my financial solvency?

■ 5. Add the following undesignated center heading before § 250.1400 in subpart N for part 250, to read as follows:

Outer Continental Shelf Lands Act Civil Penalties

■ 6. Add the following undesignated center headings and §§ 250.1450 through 250.1456, 250.1460 through 250.1464, 250.1470 through 250.1477, 250.1480, 250.1490 through 250.1491, and 250.1495 through 250.1497 after § 250.1409 in subpart N, to read as follows:

Federal Oil and Gas Royalty Management Act Civil Penalties Definitions

§ 250.1450 What definitions apply to this subpart?

The terms used in this subpart have the same meaning as in 30 U.S.C. 1702.

Penalties After a Period To Correct

§ 250.1451 What may the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) do if I violate a statute, regulation, order, or lease term relating to a Federal oil and gas lease?

(a) If we believe that you have not followed any requirement of a statute, regulation, order, or lease term for any Federal oil or gas lease, we may send you a Notice of Noncompliance informing you what the violation is and what you need to do to correct it to avoid civil penalties under 30 U.S.C. 1719(a) and (b).

(b) We will serve the Notice of Noncompliance by registered mail or personal service using the most current address on file as maintained by the BOEMRE Leasing Office in your respective Region.

§ 250.1452 What if I correct the violation?

The matter will be closed if you correct all of the violations identified in the Notice of Noncompliance within 20 days after you receive the Notice (or within a longer time period specified in the Notice).

§ 250.1453 What if I do not correct the violation?

(a) We may send you a Notice of Civil Penalty if you do not correct all of the violations identified in the Notice of Noncompliance within 20 days after you receive the Notice of Noncompliance (or within a longer time period specified in that Notice). The Notice of Civil Penalty will tell you how much penalty you must pay. The penalty may be up to $500 per day, beginning with the date of the Notice of Noncompliance, for each violation identified in the Notice of Noncompliance for as long as you do not correct the violations.

(b) If you do not correct all of the violations identified in the Notice of Noncompliance within 40 days after you receive the Notice of Noncompliance (or 20 days following the expiration of a longer time period specified in that Notice), we may increase the penalty to up to $5,000 per day, beginning with the date of the Notice of Noncompliance, for each violation for as long as you do not correct the violations.

§ 250.1454 How may I request a hearing on the record on a Notice of Noncompliance?

You may request a hearing on the record on a Notice of Noncompliance by filing a request within 30 days of the date you received the Notice of Noncompliance with the Hearings Division (Departmental), Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203. You may do this regardless of whether you correct the violations identified in the Notice of Noncompliance.

§ 250.1455 Does my request for a hearing on the record affect the penalties?

(a) If you do not correct the violations identified in the Notice of Noncompliance, the penalties will continue to accrue even if you request a hearing on the record.

(b) You may petition the Hearings Division (Departmental) of the Office of Hearings and Appeals, to stay the accrual of penalties pending the hearing on the record and a decision by the Administrative Law Judge under § 250.1472.

(1) You must file your petition within 45 calendar days of receiving the Notice of Noncompliance.

(2) To stay the accrual of penalties, you must post a bond or other surety instrument, or demonstrate financial solvency, using the standards and requirements as prescribed in 30 CFR 250.1490 through 250.1497, for the principal amount of any unpaid amounts due that are the subject of the Notice of Noncompliance, including interest thereon, plus the amount of any penalties accrued before the date a stay becomes effective.

(3) The Hearings Division will grant or deny the petition under 43 CFR 4.21(b).

§ 250.1456 May I request a hearing on the record regarding the amount of a civil penalty if I did not request a hearing on the Notice of Noncompliance?

(a) You may request a hearing on the record to challenge only the amount of a civil penalty when you receive a Notice of Civil Penalty, if you did not previously request a hearing on the record under § 250.1454. If you did not request a hearing on the record on the Notice of Noncompliance under § 250.1454, you may not contest your underlying liability for civil penalties.

(b) You must file your request within 10 days after you receive the Notice of Civil Penalty with the Hearings Division (Departmental), Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203.

Penalties Without a Period To Correct

§ 250.1460 May I be subject to penalties without prior notice and an opportunity to correct?

The Federal Oil and Gas Royalty Management Act sets out several specific violations for which penalties accrue without an opportunity to first correct the violation.

(a) Under 30 U.S.C. 1719(c), you may be subject to penalties of up to $10,000 per day per violation for each day the violation continues if you:

(1) Fail or refuse to permit lawful entry, inspection, or audit; or

(2) Knowingly or willfully fail or refuse to notify the Secretary, within 5 business days after any well begins production on a lease site or allocated to a lease site, or resumes production in the case of a well which has been off production for more than 90 days, of the date on which production has begun or resumed.

(b) Under 30 U.S.C. 1719(d), you may be subject to civil penalties of up to $25,000 per day for each day each violation continues if you:

(1) Knowingly or willfully prepare, maintain, or submit false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information;

(2) Knowingly or willfully take or remove, transport, use or divert any oil or gas from any lease site without having valid legal authority to do so; or

(3) Purchase, accept, sell, transport, or convey to another person, any oil or gas knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted.

§ 250.1461 How will BOEMRE inform me of violations without a period to correct?

We will inform you of any violation, without a period to correct, by issuing a Notice of Noncompliance and Civil Penalty explaining the violation, how to correct it, and the penalty assessment. We will serve the Notice of Noncompliance and Civil Penalty by registered mail or personal service using your address of record as specified under subpart H of part 1218.

§ 250.1462 How may I request a hearing on the record on a Notice of Noncompliance regarding violations without a period to correct?

You may request a hearing on the record of a Notice of Noncompliance regarding violations without a period to correct by filing a request within 30 days after you receive the Notice of Noncompliance with the Hearings Division (Departmental), Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy Street, Arlington, Virginia 22203. You may do this regardless of whether you correct the violations identified in the Notice of Noncompliance.

§ 250.1463 Does my request for a hearing on the record affect the penalties?

(a) If you do not correct the violations identified in the Notice of Noncompliance regarding violations without a period to correct, the penalties will continue to accrue even if you request a hearing on the record.

(b) You may ask the Hearings Division (Departmental) to stay the accrual of penalties pending the hearing on the record and a decision by the Administrative Law Judge under § 250.1472.

(1) You must file your petition within 45 calendar days after you receive the Notice of Noncompliance.

(2) To stay the accrual of penalties, you must post a bond or other surety instrument, or demonstrate financial solvency, using the standards and requirements as prescribed in 30 CFR 250.1490 through 250.1497, for the principal amount of any unpaid amounts due that are the subject of the Notice of Noncompliance, including interest thereon, plus the amount of any penalties accrued before the date a stay becomes effective.

(3) The Hearings Division will grant or deny the petition under 43 CFR 4.21(b).

§ 250.1464 May I request a hearing on the record regarding the amount of a civil penalty if I did not request a hearing on the Notice of Noncompliance?

(a) You may request a hearing on the record to challenge only the amount of a civil penalty when you receive a Notice of Civil Penalty regarding violations without a period to correct, if you did not previously request a hearing on the record under § 250.1462. If you did not request a hearing on the record on the Notice of Noncompliance under § 250.1462, you may not contest your underlying liability for civil penalties.

(b) You must file your request within 10 days after you receive Notice of Civil Penalty with the Hearings Division (Departmental), Office of Hearings and Appeals, U.S. Department of the Interior, 801 North Quincy, Arlington, Virginia 22203.

General Provisions

§ 250.1470 How does BOEMRE decide what the amount of the penalty should be?

We determine the amount of the penalty by considering the severity of the violations, your history of compliance, and if you are a small business.

§ 250.1471 Does the penalty affect whether I owe interest?

If you do not pay the penalty by the date required under § 250.1475(d), BOEMRE will assess you late payment interest on the penalty amount at the same rate interest is assessed under 30 CFR 1218.54.

§ 250.1472 How will the Office of Hearings and Appeals conduct the hearing on the record?

If you request a hearing on the record under §§ 250.1454, 250.1456, 250.1462, or 250.1464, the hearing will be conducted by a Departmental Administrative Law Judge from the Office of Hearings and Appeals. After the hearing, the Administrative Law Judge will issue a decision in accordance with the evidence presented and applicable law.

§ 250.1473 How may I appeal the Administrative Law Judge's decision?

If you are adversely affected by the Administrative Law Judge's decision, you may appeal that decision to the Interior Board of Land Appeals under 43 CFR part 4, subpart E.

§ 250.1474 May I seek judicial review of the decision of the Interior Board of Land Appeals?

Under 30 U.S.C. 1719(j), you may seek judicial review of the decision of the Interior Board of Land Appeals. A suit for judicial review in the District Court will be barred unless filed within 90 days after the final order.

§ 250.1475 When must I pay the penalty?

(a) You must pay the amount of the Notice of Civil Penalty issued under §§ 250.1453 or 250.1461, if you do not request a hearing on the record under §§ 250.1454, 250.1456, 250.1462, or 250.1464

(b) If you request a hearing on the record under §§ 250.1454, 250.1456, 250.1462, or 250.1464, but you do not appeal the determination of the Administrative Law Judge to the Interior Board of Land Appeals under § 250.1473, you must pay the amount assessed by the Administrative Law Judge.

(c) If you appeal the determination of the Administrative Law Judge to the Interior Board of Land Appeals, you must pay the amount assessed in the IBLA decision.

(d) You must pay the penalty assessed within 40 days after:

(1) You received the Notice of Civil Penalty, if you did not request a hearing on the record under either §§ 250.1454, 250.1456, 250.1462, or 250.1464;

(2) You received an Administrative Law Judge's decision under § 250.1472, if you obtained a stay of the accrual of penalties pending the hearing on the record under § 250.1455(b) or § 250.1463(b) and did not appeal the Administrative Law Judge's determination to the IBLA under § 250.1473;

(3) You received an IBLA decision under § 250.1473 if the IBLA continued the stay of accrual of penalties pending its decision and you did not seek judicial review of the IBLA's decision; or

(4) A final non-appealable judgment of a court of competent jurisdiction is entered, if you sought judicial review of the IBLA's decision and the Department or the appropriate court suspended compliance with the IBLA's decision pending the adjudication of the case.

(e) If you do not pay, that amount is subject to collection under the provisions of § 250.1477.

§ 250.1476 Can BOEMRE reduce my penalty once it is assessed?

Under 30 U.S.C. 1719(g), the Director or his or her delegate may compromise or reduce civil penalties assessed under this part.

§ 250.1477 How may BOEMRE collect the penalty?

(a) BOEMRE may use all available means to collect the penalty including, but not limited to:

(1) Requiring the lease surety, for amounts owed by lessees, to pay the penalty;

(2) Deducting the amount of the penalty from any sums the United States owes to you; and

(3) Using judicial process to compel your payment under 30 U.S.C. 1719(k).

(b) If the Department uses judicial process, or if you seek judicial review under § 250.1474 and the court upholds assessment of a penalty, the court shall have jurisdiction to award the amount assessed plus interest assessed from the date of the expiration of the 90-day period referred to in § 250.1474. The amount of any penalty, as finally determined, may be deducted from any sum owing to you by the United States.

Criminal Penalties

§ 250.1480 May the United States criminally prosecute me for violations under Federal oil and gas leases?

If you commit an act for which a civil penalty is provided at 30 U.S.C. 1719(d) and § 250.1460(b), the United States may pursue criminal penalties as provided at 30 U.S.C. 1720, in addition to any authority for prosecution under other statutes.

Bonding Requirements

§ 250.1490 What standards must my BOEMRE-specified surety instrument meet?

(a) A BOEMRE-specified surety instrument must be in a form specified in BOEMRE instructions. BOEMRE will give you written information and standard forms for BOEMRE-specified surety instrument requirements.

(b) BOEMRE will use a bank-rating service to determine whether a financial institution has an acceptable rating to provide a surety instrument adequate to indemnify the lessor from loss or damage.

(1) Administrative appeal bonds must be issued by a qualified surety company which the Department of the Treasury has approved.

(2) Irrevocable letters of credit or certificates of deposit must be from a financial institution acceptable to BOEMRE with a minimum 1-year period of coverage subject to automatic renewal up to 5 years.

§ 250.1491 How will BOEMRE determine the amount of my bond or other surety instrument?

(a) The BOEMRE bond-approving officer may approve your surety if he or she determines that the amount is adequate to guarantee payment. The amount of your surety may vary depending on the form of the surety and how long the surety is effective.

(1) The amount of the BOEMRE-specified surety instrument must include the principal amount owed under the Notice of Noncompliance or Notice of Civil Penalty plus any accrued interest we determine is owed plus projected interest for a 1-year period.

(2) Treasury book-entry bond or note amounts must be equal to at least 120 percent of the required surety amount.

(b) If your appeal is not decided within 1 year from the filing date, you must increase the surety amount to cover additional estimated interest for another 1-year period. You must continue to do this annually on the date your appeal was filed. We will determine the additional estimated interest and notify you of the amount so you can amend your surety instrument.

(c) You may submit a single surety instrument that covers multiple appeals. You may change the instrument to add new amounts under appeal or remove amounts that have been adjudicated in your favor or that you have paid, if you:

(1) Amend the single surety instrument annually on the date you filed your first appeal; and

(2) Submit a separate surety instrument for new amounts under appeal until you amend the instrument to cover the new appeals.

Financial Solvency Requirements

§ 250.1495 How do I demonstrate financial solvency?

(a) To demonstrate financial solvency under this part, you must submit an audited consolidated balance sheet, and, if requested by the BOEMRE bond-approving officer, up to 3 years of tax returns to BOEMRE using the U.S. Postal Service, private delivery, courier, or overnight delivery at:

(1) For Alaska OCS: Jeffrey Walker, RS/FO, BOEMRE Alaska OCS Region, 3801 Centerpoint Drive, Suite 500, Anchorage, AK 99503–5823, *jeffrey,walker@boemre.gov,* (907) 334–5300.

(2) For Gulf of Mexico and Atlantic OCS: Joshua Joyce, Regional FARM Program Coordinator, BOEMRE Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard New Orleans, LA 70123–2394, *joshua.joyce@boemre.gov,* (504) 736–2779

(3) For Pacific OCS: Jaron Ming, Lead Leasing Specialist, BOEMRE Pacific OCS Region, 770 Paseo Camarillo, 2nd Floor, Camarillo, CA 93010, *jaron.ming@boemre.gov,* (805) 389–7514

(b) You must submit an audited consolidated balance sheet annually, and, if requested, additional annual tax returns on the date BOEMRE first determined that you demonstrated financial solvency as long as you have active appeals, or whenever BOEMRE requests.

(c) If you demonstrate financial solvency in the current calendar year, you are not required to redemonstrate financial solvency for new appeals of orders during that calendar year unless you file for protection under any provision of the U.S. Bankruptcy Code (Title 11 of the United States Code), or BOEMRE notifies you that you must redemonstrate financial solvency.

§ 250.1496 How will BOEMRE determine if I am financially solvent?

(a) The BOEMRE bond-approving officer will determine your financial solvency by examining your total net worth, including, as appropriate, the net worth of your affiliated entities.

(b) If your net worth, minus the amount we would require as surety under 30 CFR 250.1490 and 250.1491 for all orders you have appealed is greater than $300 million, you are presumptively deemed financially solvent, and we will not require you to post a bond or other surety instrument.

(c) If your net worth, minus the amount we would require as surety under 30 CFR 250.1490 and 250.1491 for all orders you have appealed is less than $300 million, you must submit the following to BOEMRE by one of the methods in § 250.1495(a):

(1) A written request asking us to consult a business-information, or credit-reporting service or program to determine your financial solvency; and

(2) A nonrefundable $50 processing fee:

(i) You must pay the processing fee to us following the requirements for making payments found in 30 CFR 250.126. You are required to use Electronic Funds Transfer (EFT) for these payments;

(ii) You must submit the fee with your request under paragraph (c)(1) of this section, and then annually on the date we first determined that you demonstrated financial solvency, as long as you are not able to demonstrate financial solvency under paragraph (a) of this section and you have active appeals.

(d) If you request that we consult a business-information or credit-reporting service or program under paragraph (c) of this section:

(1) We will use criteria similar to that which a potential creditor would use to lend an amount equal to the bond or other surety instrument we would require under 30 CFR 250.1490 and 250.1491;

(2) For us to consider you financially solvent, the business-information or credit-reporting service or program must demonstrate your degree of risk as low to moderate:

(i) If our bond-approving officer determines that the business-information or credit-reporting service or program information demonstrates your financial solvency to our satisfaction, our bond-approving officer will not require you to post a bond or other surety instrument under 30 CFR 250.1490 and 250.1491;

(ii) If our bond-approving officer determines that the business-information or credit-reporting service or program information does not demonstrate your financial solvency to our satisfaction, our bond-approving officer will require you to post a bond or other surety instrument under 30 CFR

250.1490 and 250.1491 or pay the obligation.

§ 250.1497 When will BOEMRE monitor my financial solvency?

(a) If you are presumptively financially solvent under § 250.1496(b), BOEMRE will determine your net worth as described under §§ 250.1496(b) and (c) to evaluate your financial solvency at least annually on the date we first determined that you demonstrated financial solvency as long as you have active appeals and each time you appeal a new order.

(b) If you ask us to consult a business-information or credit-reporting service or program under § 250.1496(c), we will consult a service or program annually as long as you have active appeals and each time you appeal a new order.

(c) If our bond-approving officer determines that you are no longer financially solvent, you must post a bond or other BOEMRE-specified surety instrument under §§ 250.1490 and 250.1491.

CHAPTER XII—OFFICE OF NATURAL RESOURCES REVENUE, DEPARTMENT OF THE INTERIOR

PART 1204—ALTERNATIVES FOR MARGINAL PROPERTIES

■ 7. The authority citation for part 1204 continues to read as follows:

Authority: 30 U.S.C. 1726.

■ 8. Amend part 1204 as follows:

AMENDMENT TABLE FOR PART 1204

Amend	By removing the reference to:	And adding in its place:
§ 1204.207(b)	§ 204.208	§ 1204.208.
§ 1204.207(b)	MMS	ONRR.

PART 1206—PRODUCT VALUATION

■ 9. The authority citation for part 1206 continues to read as follows:

Authority: 5 U.S.C. 301 *et seq.;* 25 U.S.C. 396 *et seq.,* 396a *et seq.,* 2101 *et seq.;* 30 U.S.C. 181 *et seq.,* 351 *et seq.,* 1001 *et seq.,* 1701 *et seq.;* 31 U.S.C. 9701; 43 U.S.C. 1301 *et seq.,* 1331 *et seq.;* 1801 *et seq.*

■ 10. Amend part 1206 as follows:

AMENDMENT TABLE FOR PART 1206

Amend	By removing the reference to:	And adding in its place:
§ 1206.259(e)(1) (twice)	MMS	ONRR.
§ 1206.259(e)(2)	MMS	ONRR.

PART 1218—COLLECTION OF MONIES AND PROVISION FOR GEOTHERMAL CREDITS AND INCENTIVES [CORRECTION]

■ 11. The authority citation for part 1218 continues to read as follows:

Authority: 25 U.S.C. 396 *et seq.,* 396a *et seq.,* 2101 *et seq.;* 30 U.S.C. 181 *et seq.,* 351 *et seq.,* 1001 *et seq.,* 1701 *et seq.;* 31 U.S.C. 3335; 43 U.S.C. 1301 *et seq.,* 1331 *et seq.;* 1801 *et seq.*

■ 12. Amend part 1218 as follows:

AMENDMENT TABLE FOR PART 1218

Amend	By removing the reference to:	And adding in its place:
§ 1218.154(a)	Regional Supervisor	BOEMRE Regional Supervisor.
§ 1218.154(b)	Regional Supervisor	BOEMRE Regional Supervisor.

PART 1241—PENALTIES

■ 13. The authority citation for part 1241 continues to read as follows:

Authority: 25 U.S.C. 396 *et seq.,* 396a *et seq.,* 2101 *et seq.;* 30 U.S.C. 181 *et seq.,* 351 *et seq.,* 1001 *et seq.,* 1701 *et seq.;* 43 U.S.C. 1301 *et seq.,* 1331 *et seq.;* 1801 *et seq.*

■ 14. Amend § 1241.60 as follows:

■ a. Remove paragraph (a)(3).

■ b. Remove ''; or'' after the word ''audit'' and add, in its place, a period in paragraph (a)(2).

■ c. Add ''or'' after ''lease;'' in paragraph (a)(1).

■ d. Revise paragraph (b) to read as follows:

§ 1241.60 May I be subject to penalties without prior notice and an opportunity to correct?

(b) Under 30 U.S.C. 1719(d), you may be subject to civil penalties of up to $25,000 per day for each day each violation continues if you knowingly or willfully prepare, maintain, or submit false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information.

* * * * *

PART 1290—APPEAL PROCEDURES FOR OFFICE OF NATURAL RESOURCES REVENUE

■ 16. The authority citation for part 1290 is revised to read as follows:

Authority: 5 U.S.C. 301 *et seq.;* 43 U.S.C. 1331.

■ 17. Amend part 1290 as follows:

AMENDMENT TABLE FOR PART 1290

Amend	By removing the reference to:	And adding in its place:
§ 1290.105(g)	Deputy Commissioner of Indian Affairs	Director, Bureau of Indian Affairs.
§ 1290.108	Deputy Commissioner of Indian Affairs	Director, Bureau of Indian Affairs.
§ 1290.110(a)(1)	Deputy Commissioner of Indian Affairs	Director, Bureau of Indian Affairs.

[FR Doc. 2011–16681 Filed 6–30–11; 8:45 am]
BILLING CODE 4310–MR–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 570

Libyan Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is issuing regulations with respect to Libya to implement Executive Order 13566 of February 25, 2011. OFAC intends to supplement this part 570 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy.

DATES: *Effective Date:* July 1, 2011.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Sanctions Compliance & Evaluation, *tel.:* 202–622–2490, Assistant Director for Licensing, *tel.:* 202–622–2480, Assistant Director for Policy, *tel.:* 202–622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), *tel.:* 202–622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, *tel.:* 202–622–0077.

Background

On February 25, 2011, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) and the National Emergencies Act (50 U.S.C. 1601 *et seq.*), issued Executive Order 13566 (76 FR 11315, March 2, 2011) (''E.O. 13566''), effective at 8 p.m. eastern standard time on February 25, 2011.

The Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is issuing the Libyan Sanctions Regulations, 31 CFR part 570 (the ''Regulations''), to implement E.O. 13566 pursuant to authorities delegated to the Secretary of the Treasury in E.O. 13566. A copy of E.O. 13566 appears in appendix A to this part.

The Regulations are being published in abbreviated form at this time for the purpose of providing immediate guidance to the public. Effective July 1, 2011, sections 570.506 and 570.508 replace and supersede General License Nos. 3 and 2, respectively, which have been available on, and are now being removed from, OFAC's Web site. General License Nos. 1B, 4, and 5, as well as certain statements of licensing policy, are not being incorporated into the Regulations at this time and remain available on OFAC's Web site at *http://www.treasury.gov/resource-center/sanctions/programs/pages/libya.aspx.* Other general licenses and statements of licensing policy also may be added to OFAC's Web site. OFAC intends to supplement this part 570 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy. The appendix to the Regulations will be removed when OFAC supplements this part with a more comprehensive set of regulations.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 of September 30, 1993, and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 570

Administrative practice and procedure, Banking, Banks, Blocking of assets, Brokers, Credit, Foreign trade, Investments, Libya, Loans, Securities, Services.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control adds part 570 to 31 CFR Chapter V to read as follows:

PART 570—LIBYAN SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.

Subpart B—Prohibitions

Subpart C—General Definitions

Subpart D—Interpretations

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13566, 76 FR 11315, March 2, 2011.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 570.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Note to § 570.101: This part has been published in abbreviated form for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy.

Subpart B—Prohibitions

§ 570.201 Prohibited transactions.

All transactions prohibited pursuant to Executive Order 13566 of February 25, 2011 (76 FR 11315, March 2, 2011), are also prohibited pursuant to this part.

Note 1 to § 570.201: The names of persons listed in or designated pursuant to Executive Order 13566, whose property and interests in property therefore are blocked pursuant to this section, are published in the **Federal Register** and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[LIBYA2].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn.* Additional information pertaining to the SDN List can be found in Appendix A to this chapter. *See* § 570.406 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this section. Executive Order 13566 also blocks the property and interests in property of the *Government of Libya. See* § 570.304 of this part for the definition of the term *Government of Libya.* The property and interests in property of persons falling within the definition of the term *Government of Libya* are blocked pursuant to this section regardless of whether the names of such persons are published in the **Federal Register** or incorporated into the SDN List.

Note 2 to § 570.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this section also are published in the **Federal Register** and incorporated into the SDN List with the identifier ''[BPI–LIBYA2].''

Note 3 to § 570.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as the Government of Libya or persons whose property and interests in property are blocked pursuant to this section.

§ 570.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 570.201, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 570.201, unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, Executive Order 13566, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or

withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d) of § 570.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 570.201.

§ 570.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (e) or (f) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 570.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a Federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) Funds held or placed in a blocked account pursuant to paragraph (a) of this section may not be invested in instruments the maturity of which exceeds 180 days.

(c) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(d) For purposes of this section, if interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 570.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraphs (a) or (f) of this section.

(f) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 570.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(h) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 570.201, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

Subpart C—General Definitions

§ 570.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 570.201 held in the name of the Government of Libya or any other person whose property and interests in property are blocked pursuant to § 570.201, or in which the Government of Libya or such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

Note to § 570.301: See § 570.406 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 570.201.

§ 570.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to the Government of Libya, as defined in § 570.304, or a person listed in the Annex to Executive Order 13566, 8 p.m. eastern standard time, February 25, 2011; or

(b) With respect to a person whose property and interests in property are otherwise blocked pursuant to Executive Order 13566, the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

§ 570.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 570.304 Government of Libya.

The term *Government of Libya* includes:

(a) The state and the Government of Libya, as well as any political subdivision, agency, or instrumentality thereof, and the Central Bank of Libya;

(b) Any entity owned or controlled, directly or indirectly, by the foregoing;

(c) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date, acting or purporting to act directly or indirectly on behalf of any of the foregoing; and

(d) Any other person determined by the Office of Foreign Assets Control to be included within paragraphs (a) through (c) of this section.

Note 1 to § 570.304: The names of some of the persons that fall within this definition are published in the **Federal Register** and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[LIBYA2].'' The SDN List is accessible through the following page on OFAC's Web site: *http://www.treasury.gov/sdn.* However, the property and interests in property of persons falling within the definition of the term *Government of Libya* are blocked pursuant to § 570.201 regardless of whether the names of such persons are published in the **Federal Register** or incorporated into the SDN List.

Note 2 to § 570.304: Section 501.807 of this chapter describes the procedures to be followed by persons seeking administrative

reconsideration of their status as the Government of Libya.

§ 570.305 [Reserved]

§ 570.306 Interest.

Except as otherwise provided in this part, the term *interest,* when used with respect to property (*e.g.,* ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 570.307 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

Note to § 570.307: See § 501.801 of this chapter on licensing procedures.

§ 570.308 Person.

The term *person* means an individual or entity.

§ 570.309 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 570.310 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, or filing of, or levy of or under, any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 570.311 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 570.312 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, or commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 570.313 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 570.401 [Reserved]

§ 570.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in this part, any provision in or appendix to this chapter, or any order, regulation, ruling, instruction, or license issued by the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 570.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from the Government of Libya or a person, such property shall no longer be deemed to be property blocked pursuant to § 570.201, unless there exists in the property another interest that is blocked pursuant to § 570.201, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to the Government of Libya or any other person whose property and interests in property are blocked pursuant to § 570.201, such property shall be deemed to be property in which the Government of Libya or that person has an interest and therefore blocked.

§ 570.404 Transactions ordinarily incident to a licensed transaction authorized.

Any transaction ordinarily incident to a licensed transaction and necessary to

give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with the Government of Libya or any other person whose property and interests in property are blocked pursuant to § 570.201; or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 570.405 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 570.201 if effected after the effective date.

§ 570.406 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 570.201 has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 570.201, regardless of whether the entity itself is listed in the Annex or designated pursuant to Executive Order 13566.

Note to § 570.406: This section, which deals with the consequences of ownership of entities, in no way limits section 570.304's definition of the term *Government of Libya.*

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 570.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Additional general licenses and statements of licensing policy relating to this part may be available through the following page on OFAC's Web site: *http://www.treasury.gov/resource-center/sanctions/programs/pages/libya.aspx.*

§ 570.502 [Reserved]

§ 570.503 Exclusion from licenses.

The Office of Foreign Assets Control reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. The Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 570.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which the Government of Libya or any other person whose property and interests in property are blocked pursuant to § 570.201 has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

Note to § 570.504: See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 570.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 570.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, Internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 570.506 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of the Government of Libya or any other persons whose property and interests in property are blocked pursuant to § 570.201 is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of the Government of Libya or persons named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. Federal, state, or local court or agency;

(4) Representation of the Government of Libya or persons before any U.S. Federal, state, or local court or agency with respect to the imposition, administration, or enforcement of U.S. sanctions against the Government of Libya or such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to the Government of Libya or any other persons whose property and interests in property are blocked pursuant to § 570.201, not otherwise authorized by this section, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 570.201 is prohibited unless licensed pursuant to this part.

Note to § 570.506: Effective July 1, 2011, this section replaces and supersedes General License No. 3, dated March 9, 2011, which was issued pursuant to Executive Order 13566, and posted on OFAC's Web site, to authorize provision of certain legal services.

§ 570.507 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 570.201 is authorized, provided that all receipt of payment for such services must be specifically licensed.

§ 570.508 Libyan diplomatic missions in the United States.

(a) The provision of goods or services in the United States to the diplomatic missions of the Government of Libya to the United States and the United Nations is authorized, provided that:

(1) The goods or services are for the conduct of the official business of the missions, or for personal use of the employees of the missions, and are not for resale;

(2) The transaction does not involve the purchase, sale, financing, or refinancing of real property;

(3) The transaction is not otherwise prohibited by law; and

(4) The transaction is conducted through an account at a U.S. financial institution specifically licensed by OFAC.

Note to paragraph (a)(4) of § 570.508: U.S. financial institutions are required to obtain specific licenses to operate accounts for, or extend credit to, the diplomatic missions of the Government of Libya to the United States and the United Nations.

(b) The provision of goods or services in the United States to the employees of the diplomatic missions of the Government of Libya to the United States and the United Nations is authorized, provided that:

(1) The goods or services are for personal use of the employees of the missions, and are not for resale; and

(2) The transaction is not otherwise prohibited by law.

Note 1 to § 570.508: See § 570.404 for authorization, with certain exceptions, of any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto.

Note 2 to § 570.508: Effective July 1, 2011, this section replaces and supersedes General License No. 2, dated March 1, 2011, which was issued pursuant to Executive Order 13566 and posted on OFAC's Web site.

Subpart F—[Reserved]

Subpart G—[Reserved]

Subpart H—Procedures

§ 570.801 [Reserved]

§ 570.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13566 of February 25, 2011 (76 FR 11315, March 2, 2011), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 570.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Appendix A to Part 570—Executive Order 13566

Executive Order 13566 of February 25, 2011

Blocking Property and Prohibiting Certain Transactions Related to Libya

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), and section 301 of title 3, United States Code, I, BARACK OBAMA, President of the United States of America, find that Colonel Muammar Qadhafi, his government, and close associates have taken extreme measures against the people of Libya, including by using weapons of war, mercenaries, and wanton violence against unarmed civilians. I further find that there is a serious risk that Libyan state assets will be misappropriated by Qadhafi, members of his government, members of his family, or his close associates if those assets are not protected. The foregoing circumstances, the prolonged attacks, and the increased numbers of Libyans seeking refuge in other countries from the attacks, have caused a deterioration in the security of Libya and pose a serious risk to its stability, thereby constituting an unusual and extraordinary threat to the national security and foreign policy of the United States, and I hereby declare a national emergency to deal with that threat.

I hereby order:

Section 1. All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any overseas branch, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(a) The persons listed in the Annex to this order; and

(b) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(i) To be a senior official of the Government of Libya;

(ii) To be a child of Colonel Muammar Qadhafi;

(iii) To be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have participated in, the commission of human rights abuses related to political repression in Libya;

(iv) To have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods or services in support of the activities described in subsection (b)(iii) of this section or any person whose property and interests in property are blocked pursuant to this order;

(v) To be owned or controlled by, or to have acted or purported to act for or on behalf of, any person whose property and interests in property are blocked pursuant to this order; or

(vi) To be a spouse or dependent child of any person whose property and interests in property are blocked pursuant to this order.

Sec. 2. All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any overseas branch, of the Government of Libya, its agencies, instrumentalities, and controlled entities, and the Central Bank of Libya, are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

Sec. 3. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to section 1 of this order.

Sec. 4. I hereby determine that, to the extent section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) may apply, the making of donations of the type of articles specified in such section by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to sections 1 and 2 of this order would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by sections 1 and 2 of this order.

Sec. 5. The prohibitions in sections 1 and 2 of this order include but are not limited to:

(a) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) The receipt of any contribution or provision of funds, goods, or services from any such person.

Sec. 6. The prohibitions in sections 1 and 2 of this order apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or

any license or permit granted prior to the effective date of this order.

Sec. 7. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 8. Nothing in this order shall prohibit transactions for the conduct of the official business of the Federal Government by employees, grantees, or contractors thereof.

Sec. 9. For the purposes of this order:

(a) The term ''person'' means an individual or entity;

(b) The term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization; and

(c) The term ''United States person'' means any United States citizen or national, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Sec. 10. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 11. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to determine that circumstances no longer warrant the blocking of the property and interests in property of a person listed in the Annex to this order, and to take necessary action to give effect to that determination.

Sec. 12. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to submit the recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

Sec. 13. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 14. This order is effective at 8 p.m. eastern standard time on February 25, 2011.

Barack Obama

THE WHITE HOUSE,

February 25, 2011.

ANNEX

Individuals

1. Ayesha QADHAFI [Lieutenant General in the Libyan Army, born circa 1976 or 1977]
2. Khamis QADHAFI [born 1980]
3. Muammar QADHAFI [Head of State of Libya, born 1942]
4. Mutassim QADHAFI [National Security Advisor and Lieutenant Colonel in the Libyan Army, born circa 1975]
5. Saif Al-Islam QADHAFI [born June 5, 1972]

Dated: June 28, 2011.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

Approved: June 28, 2011.

David S. Cohen,

Acting Under Secretary, Office of Terrorism and Financial Intelligence, Department of the Treasury.

[FR Doc. 2011–16621 Filed 6–30–11; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0410]

RIN 1625–AA00

Safety Zone; Bullhead City Regatta, Bullhead City, AZ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the navigable waters of the Colorado River in Bullhead City, Arizona for the Bullhead City Regatta on August 13, 2011. This temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, participating vessels, and other vessels and users of the waterway. Persons and vessels would be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain of the Port or his designated representative.

DATES: This rule is effective August 13, 2011, from 6 a.m. through 6 p.m.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0410 and are available online by going to *http://www.regulations.gov,* inserting USCG–2011–0410 the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Petty Officer Shane Jackson, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard; telephone 619–278–7267, e-mail *Shane.E.Jackson@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing a NPRM would be impracticable since immediate action is needed to provide for the safety of the participants, crew, spectators, sponsor vessels, and other vessels and users of the waterway during the Regatta event.

Basis and Purpose

The City of Bullhead is sponsoring the Bullhead City Regatta, which is held on the navigable waters of the Colorado River in Bullhead City, Arizona. The temporary safety zone is necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, and other vessels and users of the waterway. This event involves people floating down the river on inflatable rafts, inner tubes and floating platforms. The size of vessels used would vary in length from 3 feet to 100 feet. Approximately 15,000 to 20,000 people would be participating in this event. The sponsor would provide 37 patrol and rescue boats to help facilitate the event and ensure public safety.

Discussion of Rule

The Coast Guard is establishing a temporary safety zone that would be enforced from 7 a.m. to 3 p.m. on August 13, 2011. This safety zone is necessary to provide for the safety of the crews, spectators, participants, and other vessels and users of the waterway. Persons and vessels would be prohibited from entering into, transiting through, or anchoring within this safety zone unless authorized by the Captain

of the Port, or his designated representative. The temporary safety zone would include the waters of the Colorado River between Davis Camp to Rotary Park in Bullhead City, Arizona. Before the effective period, the Coast Guard will publish a Local Notice to Mariners (LNM).

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

This determination is based on the size and location of the safety zone. Vessels will not be allowed to transit through the established safety zone during the specified times unless authorized to do so by the Captain of the Port or his designated representative.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the waters of the Colorado River between Davis Camp to Rotary Park in Bullhead City, Arizona from 7 a.m. to 3 p.m. on August 13, 2011.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. Although the safety zone would apply to the entire width of the river, traffic would be allowed to pass through the zone with the permission of the Coast Guard patrol commander. Before the effective period, the Coast Guard will publish a Local Notice to Mariners (LNM).

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Petty Officer Shane Jackson, Waterways Management, U.S. Coast Guard Sector San Diego, Coast Guard at (619) 278–7267. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling

procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule involves establishing a safety zone and is categorically excluded under figure 2–1, paragraph (34)(g), of the Instruction. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–425 to read as follows:

§ 165.T11–425 Safety zone; Bullhead City Regatta, Bullhead City, AZ.

(a) *Location.* This temporary safety zone includes the waters of the Colorado River between Davis Camp to Rotary Park in Bullhead City, Arizona.

(b) *Enforcement Period.* This section is in effect from 7 a.m. to 3 p.m. on August 13, 2011. Before the effective period, the Coast Guard will publish a Local Notice to Mariners (LNM). If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce that fact via Broadcast Notice to Mariners.

(c) *Definitions.* The following definition applies to this section: *designated representative,* means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and Federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Regulations.* (1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) Mariners can request permission to transit through the safety zone from the Patrol Commander. The Patrol Commander can be contacted on VHF–FM channels 16 and 23.

(3) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his designated representative.

(4) Upon being hailed by U.S. Coast Guard patrol personnel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

(5) The Coast Guard may be assisted by other Federal, state, or local agencies.

Dated: June 7, 2011.

T.H. Farris,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2011–16539 Filed 6–30–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0588]

RIN 1625–AA00

Safety Zone; Fourth of July Fireworks Event, Pagan River, Smithfield, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a 420-foot radius safety zone on the navigable waters of the Pagan River in Smithfield, VA in support of the Fourth of July Fireworks event. This action is intended to restrict vessel traffic movement to protect mariners and spectators from the hazards associated with aerial fireworks displays.

DATES: This rule will be effective from 9 p.m. to 10 p.m. on July 3, 2011.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2011–0588 and are available online by going to *http://www.regulations.gov*, inserting USCG–2011–0588 in the ''Keyword'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or e-mail LCDR Christopher A. O'Neal, Waterways Management Division Chief, Sector Hampton Roads, Coast Guard; telephone 757–668–5580, e-mail *Carlos.A.Hernandez@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive the application for this event in sufficient time to allow for publication of an NPRM, and any delay encountered in this regulation's effective date by publishing a NPRM would require either the cancellation of the event, or require that the event be held without a safety zone. Either course of action would be contrary to the public interest since immediate action is needed to provide for the safety of life and property on navigable waters. Additionally, this temporary safety zone will be enforced for approximately one hour on Sunday, July 3, 2011 while the fireworks display is in progress. This safety zone should have a minimal impact on transiting vessels because mariners are not precluded from using any portion of the waterway except the area within the safety zone. In addition, publishing an NPRM is unnecessary

because this is an annual event, which mariners should be aware of taking place, as it has been published in the **Federal Register** each year since 2008.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be contrary to the public interest since the Coast Guard did not receive an application for this event in sufficient time to allow for publication more than 30 days prior to the date scheduled for the event, and any additional delay in the effective date would prevent the safety zone from being effective at the time of the event. Therefore, immediate action is needed to ensure the safety of vessels transiting the area. In addition, publishing an NPRM is unnecessary because this is an annual event, which mariners should be aware of taking place, as it has been published in the **Federal Register** each year since 2008.

Background and Purpose

On July 3, 2011, the Isle of Wight County, VA will sponsor a fireworks display on the navigable waters of the Pagan River shoreline centered on position 36°59′18″ N/076°37′45″ W (NAD 1983). Due to the need to protect mariners and spectators from the hazards associated with the fireworks display, such as the accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris, vessel traffic will be temporarily restricted within 420 feet of the fireworks launch site.

Discussion of Rule

The Coast Guard is establishing a safety zone on the navigable waters of the Pagan River within the area bounded by a 420-foot radius circle centered on position 36°59′18″ N/076°37′45″ W (NAD 1983). This safety zone will be established in the vicinity of Smithfield, VA from 9 p.m. to 10 p.m. on July 3, 2011. In the interest of public safety, general navigation within the safety zone will be restricted during the specified date and times. Except for participants and vessels authorized by the Coast Guard Captain of the Port or his representative, no person or vessel may enter or remain in the regulated area.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. Although this regulation restricts access to the safety zone, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration; (ii) the zone is of limited size; (iii) mariners may transit the waters in and around this safety zone at the discretion of the Captain of the Port or designated representative; and (iv), the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

The rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Pagan River from 9 p.m. to 10 p.m. on July 3, 2011.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) The safety zone will be in effect for a limited duration; (ii) the zone is of limited size; and (iii) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to

minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, Under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishing a temporary safety zone. An environmental analysis checklist and a categorical exclusion determination will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 subpart C as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0588 to read as follows:

§ 165.T05–0588 Safety Zone; Fourth of July Fireworks Event, Pagan River, Smithfield, VA.

(a) *Regulated Area.* The following area is a safety zone: specified waters of the Captain of the Port Sector Hampton Roads zone, as defined in 33 CFR 3.25–10, in the vicinity of Clontz Park in Smithfield, VA and within 420 feet of position 36°59′18″ N/076°37′45″ W (NAD 1983).

(b) *Definition.* For the purposes of this part, Captain of the Port Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by any commissioned, warrant or petty officer on shore or on board a vessel that is displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads can be reached through the Sector Duty Officer at Sector Hampton Roads in Portsmouth, Virginia at telephone Number (757) 668–5555.

(4) The Coast Guard Representatives enforcing the safety zone can be contacted on VHF–FM marine band radio channel 13 (165.65Mhz) and channel 16 (156.8 Mhz).

(d) *Enforcement Period.* This rule will be enforced from 9 p.m. to 10 p.m. on July 3, 2011.

Dated: June 22, 2011.

John K. Little,

Captain, U.S. Coast Guard, Acting Captain of the Port Hampton Roads.

[FR Doc. 2011–16618 Filed 6–30–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0383; FRL–9427–9]

Revisions to the California State Implementation Plan, Antelope Valley Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Antelope Valley Air Quality Management District (AVAQMD) portion of the California State Implementation Plan (SIP). These revisions concern negative declarations for volatile organic compound (VOC) source categories for the AVAQMD. We are approving these negative declarations under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on August 30, 2011 without further notice, unless EPA receives adverse comments by August 1, 2011. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2011–0383, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.

2. *E-mail: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or e-mail. *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Cynthia Allen, EPA Region IX, (415) 947–4120, *allen.cynthia@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

Table of Contents

I. The State's Submittal

A. What negative declarations did the State submit?

Table 1 lists the negative declarations we are approving with the dates that they were adopted by the Antelope Valley Air Quality Management District (AVAQMD) and submitted by the California Air Resources Board (CARB).

TABLE 1—ANTELOPE VALLEY NEGATIVE DECLARATIONS

Local agency	Title	Adopted	Submitted
AVAQMD	Large Appliances, Surface Coating	09/19/06	01/31/07
AVAQMD	Wood Furniture Surface Coating	09/19/06	01/31/07
AVAQMD	Gasoline Bulk Plants	09/19/06	01/31/07
AVAQMD	Equipment Leaks from Natural Gas/Gasoline Processing Plants	09/19/06	01/31/07
AVAQMD	Leaks from Petroleum Refinery Equipment	09/19/06	01/31/07
AVAQMD	Air Oxidation Processes (SOCMI)	09/19/06	01/31/07
AVAQMD	Reactor and Distillation Processes (SOCMI)	09/19/06	01/31/07
AVAQMD	Tank Truck Gasoline Loading Terminals > 76,000 L	09/19/06	01/31/07
AVAQMD	Manufacture of Synthesized Pharmaceutical Products	09/19/06	01/31/07
AVAQMD	Manufacture of Pneumatic Rubber Tires	09/19/06	01/31/07
AVAQMD	Manufacture of High Density Polyethylene, Polypropylene and Polystyrene	09/19/06	01/31/07
AVAQMD	Equipment used in Synthetic Organic Chemical Polymers and Resin Manufacturing	09/19/06	01/31/07
AVAQMD	Refinery Vacuum-Producing Systems, Wastewater Separators and Process Unit Turnarounds	09/19/06	01/31/07
AVAQMD	Magnetic Wire Coating Operations	09/19/06	01/31/07
AVAQMD	Ship Repair Operations	10/19/10	01/07/11
AVAQMD	Storage of Petroleum Liquids in Fixed Roof Tanks	10/19/10	01/07/11
AVAQMD	Petroleum Liquid Storage in External Floating Roof Tanks	10/19/10	01/07/11

On February 8, 2011, EPA determined that the submittal for Antelope Valley AQMD Negative Declarations submitted on January 7, 2011, met the completeness criteria in 40 CFR Part 51, Appendix V, which must be met before formal EPA review.

On July 31, 2007, the submittal for Antelope Valley Negative Declarations submitted on January 31, 2007, was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51, Appendix V, which must be met before formal EPA review.

B. Are there other versions of these negative declarations?

There are no previous versions of these negative declarations.

C. What is the purpose of the submitted negative declarations?

The negative declarations were submitted to meet the requirements of CAA section 182(a)(2)(A). Nonattainment areas are required to adopt volatile organic compound (VOC) regulations for the published Control Techniques Guidelines (CTG) categories. If a nonattainment area does not have stationary sources for which EPA has published a CTG, then the area is required to submit a negative declaration. The negative declarations were submitted because there are no applicable sources within the AVAQMD jurisdiction. EPA's technical support document (TSD) has more information about these negative declarations.

II. EPA's Evaluation and Action

A. How is EPA evaluating the negative declarations?

The negative declarations are submitted as SIP revisions and must be consistent with Clean Air Act requirements for Reasonably Available Control Technology (RACT) (see section

182(a)(2)(A) and SIP relaxation (see sections 110(1) and 193.) To do so, the submittal should provide reasonable assurance that no sources subject to the CTG requirements currently exist or are planned for the AVAQMD.

B. Do the negative declarations meet the evaluation criteria?

We believe these negative declarations are consistent with the relevant policy and guidance regarding RACT and SIP relaxations. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted negative declarations as additional information to the SIP because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of these negative declarations. If we receive adverse comments by August 1, 2011, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on August 30, 2011.

III. Background Information

A. Why were these negative declarations submitted?

These negative declarations were submitted to fulfill the requirements of CAA Section 182(a)(2)(A). Section 182 requires that ozone nonattainment areas adopt VOC regulations found in the Control Techniques Guidelines Series for all major non-CTG sources of VOC or NO_X in their geographic area. Antelope Valley AQMD is a nonattainment area for ozone and thus is required to adopt regulations for all CTG sources and or major non-CTG sources. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. Table 2 lists some of the national milestones leading to the submittal of these local agency negative declarations.

TABLE 2—OZONE NONATTAINMENT MILESTONES

Date	Event
March 3, 1978	EPA promulgated a list of ozone attainment areas under the Clean Air Act as amended in 1977. 43 FR 8964; 40 CFR 81.305.
May 26, 1988	EPA notified Governors that parts of their SIPs were inadequate to attain and maintain the ozone standard and requested that they correct the deficiencies (EPA's SIP-Call). See section 110(a)(2)(H) of the pre-amended Act.
November 15, 1990	Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q.
May 15, 1991	Section 182(a)(2)(A) requires that ozone nonattainment areas correct deficient RACT rules by this date.

IV. Administrative Requirements

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not interfere with Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) because EPA lacks the discretionary authority to address environmental justice in this rulemaking.

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 30, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for

the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 14, 2011.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.222 is amended by adding paragraphs (a)(6)(vii) and (viii) to read as follows:

§ 52.222 Negative declarations.

(a) * * *

(6) * * *

(vii) Large Appliances, Surface Coating; Wood Furniture Surface Coating; Gasoline Bulk Plants, Equipment Leaks from Natural Gas/Gasoline Processing Plants; Leaks from Petroleum Refinery Equipment; Air Oxidation Processes (SOCMI); Reactor and Distillation Processes (SOCMI); Tank Truck Gasoline Loading Terminals > 76,000 L; Manufacture of Synthesized Pharmaceutical Products; Manufacture of Pneumatic Rubber Tires; Manufacture of High Density Polyethylene, Polypropylene and Polystyrene; Equipment Used in Synthetic Organic Chemical Polymers and Resin Manufacturing; Refinery Vacuum-Producing Systems, Wastewater Separators and Process Unit Turnarounds; and Magnetic Wire Coating Operations submitted on January 31, 2007 and adopted on September 19, 2006.

(viii) Ship Repair Operations; Storage of Petroleum Liquids in Fixed Roof Tanks; and Petroleum Liquid Storage in External Floating Roof Tanks submitted on January 7, 2011 and adopted on October 19, 2010.

* * * * *

[FR Doc. 2011–16481 Filed 6–30–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R1–ES–2011–N020; 10120–1113–0000–C2]

Endangered and Threatened Wildlife and Plants; Revised Recovery Plan for the Northern Spotted Owl (Strix occidentalis caurina)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability: revised recovery plan.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the Revised Recovery Plan for the Northern Spotted Owl (*Strix occidentalis caurina*), a northwestern U.S. species listed as threatened under the Endangered Species Act (Act). The Act requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species. Recovery plans help guide conservation efforts by describing actions considered necessary for the recovery of the species, establishing criteria for downlisting or delisting listed species, and estimating time and cost for implementing the measures needed for recovery.

DATES: Effective July 1, 2011.

ADDRESSES: Electronic copies of the revised recovery plan are available online at: *http://www.fws.gov/endangered/species/recovery-plans.html* and *http://www.fws.gov/species/nso.* Loose-leaf printed copies of the revised recovery plan are available by request from the State Supervisor, U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office, 2600 SE 98th Avenue, Suite 100, *Attention:* Diana Acosta, Portland, OR 97266 (*phone:* 503/231–6179).

FOR FURTHER INFORMATION CONTACT: Dr. Paul Henson, State Supervisor, at the above address and phone number.

SUPPLEMENTARY INFORMATION:

Background

Recovery of endangered or threatened animals and plants and the ecosystems upon which they depend is a primary goal of our endangered species program and the Endangered Species Act (Act) (16 U.S.C. 1531 *et seq.*). Recovery means improvement of the status of listed species to the point at which listing is no longer necessary under the criteria set out in section 4(a)(1) of the Act.

The Act requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Recovery plans help guide conservation efforts by describing such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species, establishing criteria for delisting in accordance with the provisions of section 4 of the Act, and estimating the time and cost for implementing those measures needed to achieve the plan's goal and intermediate steps toward that goal.

Section 4(f) of the Act requires that public notice and an opportunity for public review and comment be provided during recovery plan development. In fulfillment of this requirement, we made the Draft Revised Recovery Plan for the Northern Spotted Owl available for public review and comment from September 15 through November 15, 2010 (September 15, 2010; 75 FR 56131) and then extended the comment period from November 30 through December 15, 2010 (November 30, 2010; 75 FR 74073). In addition, we reopened the comment period from April 22 through May 23, 2011 (April 22, 2011; 76 FR 22720) on an updated version of Appendix C of the draft revised recovery plan, which describes the development of a spotted owl habitat modeling tool. As we prepared this final revised recovery plan, we considered information provided during the public comment periods. An appendix to the plan will guide readers to a Web address where summarized responses to comments can be reviewed.

The northern spotted owl (hereafter, spotted owl) was Federally listed as a threatened species on June 26, 1990 (55 FR 26114). The current range of the spotted owl extends from southwest British Columbia through the Cascade Mountains, coastal ranges, and intervening forested lands in Washington, Oregon, and California, as far south as Marin County. Spotted owls

generally rely on older forested habitats, because such forests contain the structures and characteristics required for nesting, roosting, and foraging. Features that support nesting and roosting typically include a moderate to high forest canopy closure (60 to 90 percent); a multilayered, multispecies forest canopy with large overstory trees; a high incidence of large trees with various deformities (large cavities, broken tops, mistletoe infections, and other evidence of decadence); large snags (dead trees); large accumulations of fallen trees and other woody debris on the ground; and sufficient open space below the forest canopy for spotted owls to fly. Foraging habitat generally has attributes similar to nesting and roosting habitat, but may also include areas with less structural diversity and lower canopy cover. Habitat characteristics are known to vary across the range of the species.

The spotted owl was listed as threatened throughout its range due to the loss of suitable habitat to timber harvesting, exacerbated by catastrophic events such as fire and wind storms. Today we recognize past habitat loss, current habitat loss, and competition from barred owls (*Strix varia*) as the most pressing threats to spotted owl persistence. The recovery actions in this revised recovery plan are designed to address these and other threats within the range of the spotted owl.

In May of 2008, we published the Recovery Plan for the Northern Spotted Owl and announced its availability in the **Federal Register** (May 21, 2008; 73 FR 29471). The 2008 recovery plan formed the basis for our revised designation of spotted owl critical habitat, which we published in the **Federal Register** on August 13, 2008 (73 FR 47325). Both the 2008 critical habitat designation and the 2008 recovery plan were challenged in court: *Carpenters' Industrial Council* v. *Salazar,* Case No. 1:08–cv–01409–EGS (D.DC). In addition, on December 15, 2008, the Inspector General of the Department of the Interior issued a report entitled ''Investigative Report of The Endangered Species Act and the Conflict between Science and Policy,'' which concluded that the integrity of the agency decisionmaking process for the spotted owl recovery plan was potentially jeopardized by improper political influence. As a result, the Federal government filed a motion in the lawsuit for remand of the 2008 recovery plan and critical habitat designation. On September 1, 2010, the Court issued an opinion remanding the 2008 recovery plan to us for issuance of a revised plan within 9 months. On October 12, 2010, the Court remanded the 2008 critical habitat designation and ordered the Service to issue a new proposed critical habitat rule for public comment by November 15, 2010, and a final rule by November 15, 2012. On May 6, 2011, the Court granted our request for an extension of the due date for issuance of the final revised recovery plan until July 1, 2011. This notice announces the availability of the final revision to the 2008 recovery plan.

The revised recovery plan is based on a review of all relevant biology, including new scientific information that has become available and critical peer review comments we received on the 2008 recovery plan from three professional scientific associations: The Wildlife Society, the American Ornithologists' Union, and The Society for Conservation Biology. Like several previous plans for conserving and recovering the spotted owl, the 2008 recovery plan recommended a network of large habitat blocks, or Managed Owl Conservation Areas (MOCAs), intended to support long-term recovery of the species. The peer review comments, however, were critical of this network for several reasons, including that we did not use updated modeling techniques to design the network and assess its efficacy.

The revised recovery plan prioritizes recovery tasks aimed at: (1) Maintaining and managing for an adequate amount of spotted owl habitat across the species' range; (2) restoring natural processes in the dry forest landscapes such that the impacts of habitat loss through climate change are minimized; and (3) conducting large-scale experiments on the effects of barred owl removal in areas where the two species co-occur. The goal of this recovery plan is to improve the status of the spotted owl so that it no longer requires the protections of the Endangered Species Act.

The revised recovery plan is different from the 2008 recovery plan in several respects. We initiated a scientifically rigorous, multi-step, range-wide modeling effort to allow comparison of estimated spotted owl population performance among alternative habitat conservation scenarios and other conservation strategies. We are withdrawing our previous recommendation to implement the MOCA network identified in the 2008 recovery plan and instead recommend continuing to rely upon the Northwest Forest Plan and designated critical habitat. Until spotted owl population trends improve, the revised recovery plan also recommends conserving spotted owl sites and high value spotted owl habitat to provide additional demographic support to the spotted owl population and refugia from barred owls. The revised recovery plan also recognizes the possibility of needing additional conservation contributions from non-Federal lands. Finally, the revised recovery plan affirms our support for forest restoration management actions that address concerns about climate change and health of forest ecosystems and promote long-term spotted owl recovery.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: June 6, 2011.

Robyn Thorson,

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 2011–16456 Filed 6–30–11; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 76, No. 127
Friday, July 1, 2011

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

12 CFR Chapter XVIII

Bond Guarantee Program

AGENCY: Community Development Financial Institutions Fund, U.S. Department of Treasury.

ACTION: Request for public comment.

SUMMARY: This notice invites comments from the public on issues regarding the Community Development Financial Institutions (CDFI) Bond Guarantee Program created by the Small Business Jobs Act of 2010. All materials submitted will be available for public inspection and copying.

DATES: All comments and submissions must be received by August 15, 2011.

ADDRESSES: Comments may be sent by mail to: Jodie Harris, Policy Specialist, CDFI Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005; by e-mail to *cdfihelp@cdfi.treas.gov;* or by facsimile at (202) 622–7754. Please note this is not a toll free number.

FOR FURTHER INFORMATION CONTACT: Information regarding the CDFI Fund and its programs may be downloaded from the CDFI Fund's Web site at *http://www.cdfifund.gov.*

SUPPLEMENTARY INFORMATION: The Community Development Financial Institutions Fund (CDFI Fund) was created for the purpose of promoting economic revitalization and community development through investment in and assistance to CDFIs. Its vision is to economically empower America's underserved and distressed communities through the provision of low-cost capital to certified CDFIs. The CDFI Fund was established by the Riegle Community Development Banking and Financial Institutions Act of 1994.

The CDFI Bond Guarantee Program (the program) was enacted through the Small Business Jobs Act of 2010 (Pub. L. 111–240) on September 27, 2010. The CDFI Fund will serve as the program administrator and must administer the program in accordance with sections 1134 and 1703 of the Small Business Jobs Act, which amended the Community Development Banking and Financial Institutions Act of 1994, 12 U.S.C. 4701 *et seq.* (the Act) by adding a new section 114A.

Section 114A authorizes the Secretary of the Treasury (through the CDFI Fund) to guarantee the full amount of notes or bonds, including the principal, interest, and call premiums not to exceed 30 years, issued by CDFIs to finance loans for eligible community or economic development purposes. The bonds or notes will support CDFI lending and investment by providing a source of long-term, patient capital to CDFIs. In accordance with Federal credit policy, moreover, the Federal Financing Bank (FFB), a body corporate and instrumentality of the United States Government under the general supervision and direction of the Secretary of the Treasury, finances obligations that are 100% guaranteed by the United States, such as the bonds or notes to be issued by CDFIs under the program. Because the FFB's cost of funds is equivalent to the current Treasury rates for comparable maturities, the FFB can provide CDFIs the least expensive funds to generate loans and represents the most efficient way for CDFIs to finance 100% Federally guaranteed obligations.

The CDFI Fund is required by statute to promulgate program regulations by September 27, 2011 and to implement the program by September 27, 2012.

The CDFI Fund invites and encourages comments and suggestions germane to the mission, purpose, and implementation of the CDFI Bond Guarantee Program. The CDFI Fund is particularly interested in comments in the following areas:

1. Definitions

(a) Section 114A(a) of the Act provides certain definitions applicable to the CDFI Bond Guarantee Program. In particular, Section 114A(a)(2) of the Act defines eligible community or economic development purpose as any purpose described in section 108(b) [12 U.S.C. 4707(b)] and includes the provision of community or economic development in low-income or underserved rural areas. The CDFI Fund is interested in comments regarding all definitions found in the Act as they relate to the program, including the following:

(i) How should the term ''low-income'' be defined as such term is used in Section 114A(a)(2)?

(ii) How should the term ''rural areas'' be defined as such term is used in Section 114A(a)(2)? For example, is a rural community any census tract that is not located in a metropolitan statistical area (MSA)? Respondents should discuss how a particular definition would enable the program to target businesses and residents in rural areas, and discuss whether there are particular measures that should not be used because they may inadvertently disadvantage certain populations (*i.e.,* provide examples of particular households or communities that would not qualify under specific definitions).

(iii) How should the term ''underserved'' be defined and/or measured?

(iv) Should ''eligible community or economic development purpose'' be defined to allow a CDFI or its designated Qualified Issuer to only invest inside the CDFI Fund Target Market that it was certified to serve?

2. Use of Funds

(a) The Act defines a loan as any credit instrument that is extended under the CDFI Bond Guarantee Program for any eligible community or economic development purpose. Section 114A(b) of the Act states that the Secretary of the Treasury (the Secretary) shall guarantee payments on bonds or notes issued by a qualified issuer if the proceeds of the bonds or notes are used in accordance with this section to make loans to eligible community development financial institutions (CDFIs)

(1) For eligible community or economic development purposes; or

(2) To refinance loans or notes issued for such purposes.

The CDFI Fund invites and encourages comments and suggestions germane to the criteria and use of funds. The CDFI Fund is particularly interested in comments including the following:

(i) Should there be any limitations on the types of loans that can be financed or refinanced with the bond proceeds? Are there any uses of bond or note proceeds that should be excluded or deemed ineligible regardless of the fact

that the use was in a low-income or underserved rural area?

(ii) Should the capitalization of: (1) Revolving loan funds; (2) credit enhancement of investments made by CDFIs and/or others; or (3) loan loss reserves, debt service reserves, and/or sinking funds in support of a Federally guaranteed bond, be included as eligible purposes?

(iii) Should there be any limits on the percentage of loans or notes refinanced with the bond proceeds? If so, what should they be?

(iv) Should CDFIs be allowed to use bond proceeds to purchase loans from other CDFIs? If so, should the CDFI that sells the loans be required to invest a certain portion of the proceeds from the sale to support additional community development activities?

(v) Should the CDFI Fund place additional restrictions on the awardees' loan products, such as a cap on the interest rate, fees and/or late payment penalties or on the marketing and disclosure standards for the products? If so, what are the appropriate restrictions?

(b) Section 114A(c)(1) states that a capital distribution plan meets the requirements of the subsection if not less than 90 percent of the principal amount of guaranteed bonds or notes (other than the cost of issuance fee) are used to make loans for any eligible community or economic development purpose, measured annually, beginning at the end of the one-year period beginning on the issuance date of such guaranteed bonds or notes. The CDFI Fund welcomes comments regarding this provision, specifically regarding what penalties the CDFI Fund should impose if an issuer is out of compliance.

(c) Section 114A(c)(2) states that not more than 10 percent of the principal amount of guaranteed bonds or notes –, multiplied by an amount equal to the outstanding principal balance of issued notes or bonds, minus the risk-share pool amount—may be held in a relending account and may be available for new eligible community or economic development purposes.

(i) How should the CDFI Fund define ''relending'' account as stated in Section 114A(c)(2)? How should it differ from the loans made under Section 114(c)(1)?

(ii) If the capitalization of revolving loan funds is deemed an allowable use of funds under Section 114A(a)(4), what activities would be eligible under the relending account?

(iii) If additional reserves are held, should they be permitted to be funded from the relending account?

(iv) Should a sinking fund, or any other reserve to allow for the payment of debt service, be permitted to be funded from the relending account?

(d) Section 114A(d) states that each qualified issuer shall, during the term of a guarantee provided under the CDFI Bond Guarantee Program, establish a risk-share pool, capitalized by contributions from eligible community development financial institution participants, of an amount equal to three percent of the guaranteed amount outstanding on the subject notes and bonds.

(i) In the event that the CDFI Fund determines that there is a risk of loss to the government for which Congress has not provided an appropriation, what steps should the CDFI Fund take to compensate for this risk?

a. Should the interest rate on the bonds be increased?

b. Should a larger risk-share pool be required?

c. Should the CDFI Fund require restrictions, covenants and conditions (*e.g.,* net asset ratio requirement, first loss requirements, first lien position; over-collateralization, replacement of troubled loans)?

(ii) How should the CDFI Fund assess and compensate for different levels of risk among diverse proposals without unduly restricting the flexible use of funds for a range of community development purposes? For example:

a. Should the CDFI Fund take into account the participation of a risk-sharing partner? What should be the parameters of any such risk-sharing?

b. Should the Fund take into account an independent, third-party credit rating from a major rating agency?

(iii) Are there restrictions, covenants, conditions or other measures the CDFI Fund should not impose? Please provide specific examples, if possible.

(iv) Should the qualified issuer be allowed to set aside the three percent from the bond proceeds or should these funds be separate from the proceeds?

3. Guarantee Provisions

(a) Section 114A(a)(3) defines a guarantee as a written agreement between the Secretary and a qualified issuer (or trustee) pursuant to which the Secretary ensures repayment of the verifiable losses of principal, interest, and call premium, if any, on notes or bonds issued by a qualified issuer to finance or refinance loans to eligible CDFI. The CDFI Fund invites and encourages comments and suggestions relating to the guarantee provisions, especially:

(i) How should the CDFI Fund define and determine ''verifiable losses of principal, interest, and call premium''?

(ii) Should the CDFI Fund permit a call upon the guarantee at any point prior to the issuer liquidating the available assets? If so, under what condition should a call on the guarantee be permitted?

(b) Section 114A(e)(1) indicates that the Treasury guarantee shall be for the full amount of a bond or note, including the amount of principal, interest, and call premiums not to exceed 30 years. The Treasury may not guarantee any amount less than $100 million per issuance.

(i) Should the CDFI Fund set specific guidelines or prohibitions for the structure of the bond (*e.g.,* callable, convertible, zero-coupon)?

(ii) Should bonds that are used to fund certain asset classes be required to have specific terms or conditions? Should riskier asset classes or borrowers require additional enhancements?

(c) Section 114A(e)(2) states limitations on the guarantees.

(1) The Secretary shall issue not more than 10 guarantees in any calendar year under the program.

(2) The Secretary may not guarantee any amount under the program equal to less than $100 million but the total of all such guarantees in any fiscal year may not exceed $1 billion.

(i) Can qualified issuers apply for multiple issuances? Should there be a limit per qualified issuer? If so, what should that limit be?

4. Eligible Entities

(a) Section 114A(a)(1) defines an eligible entity as a CDFI (as described in section 1805.201 of title 12, Code of Federal Regulations, or any successor thereto) certified by the Secretary that has applied to a qualified issuer for, or that has been granted by a qualified issuer, a loan under the program. The CDFI Fund welcomes comments on issues relating to eligible entities, particularly with respect to the following questions:

(i) Should the CDFI Fund require one qualified issuer (or appointed trustee) for all bonds and notes issued under the program?

(ii) Should the CDFI Fund permit an entity not yet certified as a CDFI to apply for CDFI certification simultaneous with submission of a capital distribution plan?

(iii) Should the CDFI Fund allow all existing CDFIs to apply, or should there be minimum eligibility criteria?

(iv) The Act states that a qualified issuer should have ''appropriate expertise, capacity, and experience, or otherwise be qualified to make loans for eligible community or economic development purposes.'' How should

the CDFI Fund determine that a qualified issuer meets these requirements?

(v) What penalties should be imposed in the event that a CDFI participating in the program ceases to be a certified CDFI? What remedies and cure periods should the CDFI Fund allow in the event of a lapse in CDFI certification?

(b) Section 114A(a)(5) defines a master servicer as an entity approved by the Secretary in accordance with subparagraph (B) to oversee the activities of servicers, as provided in subsection (f)(4).

(i) Should the CDFI Fund require one servicer for all bonds and notes issued under the program?

(ii) Should the CDFI Fund require the master servicer and servicers to have a track record of providing similar services? How should the CDFI Fund evaluate the capabilities of prospective servicers and master servicers?

(iii) Should the CDFI Fund pre-qualify servicers and make those groups known to CDFIs wishing to submit a capital distribution plan for consideration?

(iv) Should a CDFI issuer be allowed to serve as its own servicer?

(v) Should the master servicer be eligible to serve as a program administrator or servicer for a qualified issuer? If so, how should potential conflicts of interest be managed?

(c) Section 114(a)(8) defines qualified issuers as a CDFI (or any entity designated to issue notes or bonds on behalf of such CDFI) that meets certain qualifications: (1) Have appropriate expertise, (2) have an acceptable capital distribution plan, and (3) be able to certify that the bond proceeds will be used for community development.

(i) How should a CDFI demonstrate its expertise?

(ii) Are there any institutions that should be prohibited from serving as qualified issuers?

(iii) Should the CDFI Fund establish minimum criteria for serving as a qualified issuer?

(iv) Should the CDFI Fund set a minimum asset size for CDFI participation as a qualified issuer?

(v) Should the CDFI Fund require the issuer to have a minimum net capital (real equity capital) and require a set amount of net capital be held for the term of the bond? If so, what is a reasonable level to require?

(vi) Should qualified issuers be required to obtain an independent, third-party credit rating from a major rating agency?

5. Capital Distribution Plan

(a) Section 114A(a)(8)(B)(ii)(II) states that a qualified issuer shall provide to the Secretary: (aa) an acceptable statement of the proposed sources and uses of the funds and (bb) a capital distribution plan that meets the requirements of subsection (c)(1). The CDFI Fund seeks comments relating to the capital distribution plan requirement, specifically:

(i) What elements should be required in an acceptable statement of proposed sources and uses of the funds? How should the CDFI Fund measure acceptability?

(ii) What elements should be required in a capital distribution plan? Are there examples of such plans, Federal or otherwise, upon which the CDFI Fund should model the CDFI Bond Guarantee Program's capital distribution plan requirements and application materials?

(iii) Should the CDFI Fund require specific intended uses of all the bond proceeds in the capital distribution plan or should the qualified issuers just be required to demonstrate an intended pipeline of underlying assets?

(iv) Should the CDFI Fund set minimum underwriting criteria for borrowers? Should applicants be required to demonstrate satisfaction of those criteria in the capital distribution plan?

6. Accountability of Qualified Issuers

(a) The CDFI Fund welcomes comments on how to monitor the use of proceeds and financial performance of qualified issuers, particularly with respect to the following questions:

(a) What tests should the CDFI Fund use to evaluate if 90 percent of bond proceeds have been invested in qualified loans? Should reports be required from the qualified issuer more frequently than on an annual basis?

(c) What types of tests should the CDFI Fund use to evaluate satisfaction of the low-income or rural requirement set forth in Section 114A(a)(2)?

(d) What support, if any, would applicants and awardees like to receive from the CDFI Fund after having issued a bond?

(e) What specific industry standards for impact measures (businesses financed, units of affordable housing developed, etc.) should the CDFI Fund adopt for evaluating and monitoring loans financed or refinanced with proceeds of the guaranteed notes or bonds?

(f) Should achievement of some standards or outcome measures be mandatory?

(g) Are the approval criteria for qualified issuers as listed in Section 114A(a)(8)(B) adequate? If not, what else should be included?

7. Prohibited Uses

(a) Section 114A(b)(5) provides certain prohibitions on use of funds including, ''political activities, lobbying, outreach, counseling services, or travel expenses.'' The CDFI Fund encourages comments and suggestions germane to prohibited uses established in the Act, specifically as to whether there are other prohibited uses that the CDFI Fund should include.

8. Servicing of Transactions

(a) Section 114A(f) states that, in general, to maximize efficiencies and minimize cost and interest rates, loans made under this section may be serviced by qualified program administrators, bond servicers, and a master servicer. This section further outlines the duties of the program administrator, servicers, and the master servicer. Comments regarding the servicing of transactions are welcome, specifically:

(i) The Act lists certain duties of a program administrator. Should there be other requirements?

(ii) The duties of a program administrator suggest that the CDFI Fund will serve as the program administrator for all issuances. Should the CDFI Fund require that each qualified issuer have a designated program administrator as suggested in section 114A(a)(7)?

(iii) If so, should the servicer be eligible to serve as a program administrator for a qualified issuer?

(iv) Who should be responsible for resolving troubled loans?

(v) On what basis should servicers be compensated?

(vi) Are there any duties not listed that should be included in sections 114A(f)(2) through 114A(f)(4)? Are there any prohibitions or limitations that should be applied?

9. General Compliance

The CDFI Fund welcomes comments on general compliance issues related to monitoring the guarantee portfolio, particularly with respect to the following questions:

(i) What types of compliance measures should be required by the CDFI Fund? Should the CDFI Fund mandate specific reports to be collected and reviewed by the servicer and ultimately the master servicer? If so, please provide examples.

(ii) The Act states that ''repayment shall be made on that portion of bonds or notes necessary to bring the bonds or notes that remain outstanding after such repayment into compliance with the 90 percent requirement of paragraph (1).''

How should the CDFI Fund enforce this requirement?

(iii) What penalties should the CDFI Fund impose if a qualified issuer is deemed noncompliant?

(iv) The Act provides that the qualified issuer pay a fee of 10 basis points annually. What penalties should be imposed for failure to comply?

10. General Comments

The CDFI Fund is also interested in receiving any general comments and suggestions regarding the structure of the CDFI Bond Guarantee Program that are not addressed above.

Authority: Pub. L. 111–240.

Dated: June 23, 2011.

Donna J. Gambrell,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2011–16682 Filed 6–30–11; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0087; Airspace Docket No. 11–ASO–12]

Proposed Amendment of Class D Airspace; Eglin AFB, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D Airspace in the Eglin Air Force Base (AFB), FL airspace area. The Destin Non-Directional Beacon (NDB) has been decommissioned and new Standard Instrument Approaches have been developed for Destin-Fort Walton Beach Airport that would enhance the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before August 15, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA, Order 7400.9 and publication of conforming amendments.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; *Telephone:* 1–800–647–5527; *Fax:* 202–493–2251. You must identify the Docket Number FAA–2011–0087; Airspace Docket No. 11–ASO–12, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2011–0087; Airspace Docket No. 11–ASO–12) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Annotators wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–0087; Airspace Docket No. 11–ASO–12.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class D airspace in the Eglin AFB, FL area. The Destin NDB has been decommissioned, and the NDB approach cancelled. New standard instrument approach procedures have been developed for Destin-Fort Walton Beach Airport. The existing Class D airspace extending upward from the surface would be modified for the safety and management of IFR operations.

Class D airspace designations are published in Paragraph 5000 of FAA order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in

Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend Class D airspace in the Eglin AFB, FL area.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, effective September 15, 2010, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

ASO FL D Eglin Air Force Base, FL [Amended]

Eglin Air Force Base, FL
(Lat. 30°28′59.59″ N., long. 86°31′34″ W.)
Destin-Fort Walton Beach Airport
(Lat. 30°24′00″ N., long. 86°28′17″ W.)
Duke Field
(Lat. 30°39′07″ N., long. 86°31′23″ W.)
Hurlburt Field
(Lat. 30°25′44″ N., long. 86°41′20″ W.)

That airspace extending upward from the surface, to and including 2,600 feet MSL within a 5.5-mile radius of Eglin AFB and within a 4.4-mile radius of Destin-Fort Walton Beach Airport, excluding the portion north of a line connecting the 2 points of intersection within a 5.2-mile radius centered on Duke Field; excluding the portion southwest of a line connecting the 2 points of intersection within a 5.3-mile radius of Hurlburt Field; excluding a portion east of a line beginning at lat. 30°30′43″ N., long. 86°26′21″ W. extending east to the 5.5-mile radius of Eglin AFB.

Issued in College Park, Georgia, on May 13, 2011.

Barry A. Knight,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2011–16587 Filed 6–30–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0579; Airspace Docket No. 11–AEA–14]

Proposed Amendment of Class D and E Airspace and Revocation of Class E Airspace; Manassas, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class D and Class E airspace areas and remove Class E airspace at Manassas Municipal/Harry P. Davis Airport, Manassas, VA. A Standard Instrument Approach Procedure has been cancelled; therefore modification to the airspace areas is required for the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before August 15, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA, Order 7400.9 and publication of conforming amendments.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; *Telephone:* 1–800–647–5527; *Fax:* 202–493–2251. You must identify the Docket Number FAA–2011–0579; Airspace Docket No. 11–AEA–14, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov*.

You may review the public docket containing the rule, any comments received, and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT: John Fornito, Airspace Specialist, Operations Support Group, Eastern Service Center, Air Traffic Organization, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this proposed rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Those wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–0579; Airspace Docket No. 11–AEA–14.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*. Additionally, any person may obtain a copy of this notice by submitting a

request to the Federal Aviation Administration (FAA), Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class D and E surface airspace at Manassas Municipal/Harry P. Davis Airport, Manassas, VA. Cancellation of the VOR approach into the airport has made this action necessary. Class E airspace designated as an extension to Class D airspace is no longer needed and therefore, would be removed. This action would enhance the safety and management of IFR operations at Manassas Municipal/Harry P. Davis Airport.

Class D and E airspace designations are published in Paragraphs 5000, 6002 and 6004, respectively, of FAA Order 7400.9U, dated August 18, 2010, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it proposes to remove Class E airspace and amend Class D and E airspace at Manassas, VA.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 will continue to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, signed August 15, 2010, and effective September 15, 2011, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

AEA VA D Manassas, VA [Amended]

Manassas Municipal/Harry P. Davis Airport, VA
(Lat. 38°43′17″ N., long. 77°30′56″ W.)

That airspace extending upward from the surface to but not including 2,000 feet MSL within a 5-mile radius of the Manassas Municipal/Harry P. Davis Airport, excluding that airspace within the Washington Tri-Area Class B airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

AEA VA E2 Manassas, VA [Amended]

Manassas Municipal/Harry P. Davis Airport, VA
(Lat. 38°43′17″ N., long. 77°30′56″ W.)

That airspace extending upward from the surface to but not including 2,000 feet MSL within a 5-mile radius of the Manassas Municipal/Harry P Davis Municipal Airport, excluding that airspace within the Washington Tri-Area Class B airspace area. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6004 Class E airspace designated as an extension to a Class D surface area.

* * * * *

AEA VA E4 Manassas, VA [Removed]

Issued in College Park, Georgia, on June 27, 2011.

Barry A. Knight,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2011–16657 Filed 6–30–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0394; Airspace Docket No. 11–ASO–17]

Proposed Amendment of Class E Airspace; Clemson, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E Airspace at Clemson, SC, as a runway extension requires amended Standard Instrument Approach Procedures at Oconee County Regional Airport. This action would enhance the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport. This action also would recognize the airport name change to Oconee County Regional Airport.

DATES: Effective 0901 UTC, Comments must be received on or before August 15, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA, Order 7400.9 and publication of conforming amendments.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington,

DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You must identify the Docket Number FAA–2011–0394; Airspace Docket No. 11–ASO–17, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this proposed rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2011–0394; Airspace Docket No. 11–ASO–17) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Annotators wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–0394; Airspace Docket No. 11–ASO–17.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet above the surface to support new standard instrument approach procedures developed at Oconee County Regional Airport, Clemson, SC. Airspace reconfiguration is necessary for continued safety and management of IFR operations at the airport. Also, the airport name would be changed from Clemson-Oconee County Airport to Oconee County Regional Airport.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend Class E airspace at Oconee County Regional Airport, Clemson, SC.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, effective September 15, 2010, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO SC E5 Clemson, SC [AMENDED]

Oconee County Regional Airport, SC
(Lat. 34°40′19″ N., long. 82°53′12″ W.)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Oconee County Regional Airport.

Issued in College Park, Georgia, on June 27, 2011.

Barry A. Knight,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2011–16655 Filed 6–30–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0243; Airspace Docket No. 11–ANE–12]

Proposed Amendment of Class E Airspace; Burlington, VT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E Airspace at Burlington, VT, to accommodate the additional airspace needed for the Standard Instrument Approach Procedures developed for Burlington International Airport. This action shall enhance the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport. This action also shall make a minor adjustment to the geographic coordinates of the airport.

DATES: Comments must be received on or before August 15, 2011.

ADDRESSES: Send comments on this rule to: U. S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; *Telephone:* 1–800–647–5527; *Fax:* 202–493–2251. You must identify the Docket Number FAA– 2011–0243; Airspace Docket No. 11–ANE–12, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2011–0243; Airspace Docket No. 11–ANE–12) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Annotators wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–0243; Airspace Docket No. 11–ANE–12.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace at Burlington, VT to provide additional controlled airspace required to support standard instrument approach procedures at Burlington International Airport. The existing Class E surface area airspace and Class E airspace designated as an extension would be amended for the safety and management of IFR operations at the airport. The geographic coordinates for Burlington International Airport in all Class E airspace areas also would be adjusted to be in concert with the FAAs aeronautical database.

Class E airspace designations are published in Paragraph 6002, 6003, and 6005, respectively, of FAA Order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would amend Class E airspace at

Burlington International Airport, Burlington, VT.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010, is amended as follows:

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

ANE VT E2 Burlington, VT [Amended]

Burlington International Airport, VT
(Lat. 44°28′19″ N., long. 73°09′12″ W.)
Burlington, VORTAC
(Lat. 44°23′50″ N., long. 73°10′57″ W.)

That airspace extending upward from the surface within a 5-mile radius of Burlington International Airport, and within 2.4 miles each side of the Burlington VORTAC 201° radial extending from the 5-mile radius of the airport to 7 miles southwest of the Burlington VORTAC, and within 1.8 miles each side of the Burlington International Airport 302° bearing extending from the 5-mile radius of the airport to 5.4 miles northwest of the airport, and within 4 miles each side of the Burlington International Airport 131° bearing extending from the 5-mile radius to 16 miles southeast of the airport. This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6003 Class E airspace areas designated as an extension.

* * * * *

ANE VT E3 Burlington, VT [Amended]

Burlington International Airport, VT
(Lat. 44°28′19″ N., long. 73°09′12″ W.)
Burlington, VORTAC
(Lat. 44°23′50″ N., long. 73°10′57″ W.)

That airspace extending upward from the surface within 2.4 miles on each side of the Burlington VORTAC 201° radial extending from a 5-mile radius of the airport to 7 miles southwest of the Burlington VORTAC, and within 1.8 miles each side of the Burlington International Airport 302° bearing extending from the 5-mile radius of the airport to 5.4 miles northwest of the airport and within 4 miles each side of the Burlington International Airport 131° bearing extending from the 5-mile radius of the airport to 16 miles southeast of the airport.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANE VT E5 Burlington, VT [Amended]

Burlington International Airport, VT
(Lat. 44°28′19″ N., long. 73°09′12″ W.)

That airspace extending upward from 700 feet above the surface within a 23-mile radius of Burlington International Airport; excluding that airspace within the Plattsburgh, NY, Class E airspace area.

Issued in College Park, Georgia, on June 23, 2011.

Mark D. Ward,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2011–16663 Filed 6–30–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–0369; Airspace Docket No. 11–AEA–07]

Proposed Establishment of Class E Airspace; Wilkes-Barre, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E Airspace at Wilkes-Barre, PA, to accommodate new Standard Instrument Approach Procedures at Wilkes-Barre Wyoming Valley Airport. This action would enhance the safety and airspace management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before August 15, 2011.

ADDRESSES: Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; *Telephone:* 1–800–647–5527; *Fax:* 202–493–2251. You must identify the Docket Number FAA–2011–0369; Airspace Docket No. 11–AEA–07, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2011–0369; Airspace Docket No. 11–AEA–07) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Annotators wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2011–0369; Airspace Docket No. 11–AEA–07.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to establish Class E airspace at Wilkes-Barre, PA providing the controlled airspace required to support the new RNAV GPS standard instrument approach procedures for Wilkes-Barre Wyoming Valley Airport. Controlled airspace extending upward from 700 feet above the surface would be established for the safety and management of IFR operations at the airport.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would establish Class E airspace at Wilkes-Barre Wyoming Valley Airport, Wilkes-Barre, PA.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, effective September 15, 2010, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA PA E5 Wilkes-Barre, PA [New]

Wilkes-Barre Wyoming Valley Airport
(Lat. 41°17′50″ N., long. 75°51′09″ W.)

That airspace extending upward from 700 feet above the surface within an 11.6-mile radius of Wilkes-Barre Wyoming Valley Airport.

Issued in College Park, Georgia, on June 27, 2011.

Barry A. Knight,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2011–16664 Filed 6–30–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2011–0575]

RIN 1625–AA00

Safety Zone; Swim Around Charleston, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary moving safety zone during the Swim Around Charleston, a swimming race occurring on waters of the Wando River, the Cooper River, Charleston Harbor, and the Ashley River, in Charleston, South Carolina. The Swim Around Charleston is scheduled to take place on Sunday, October 23, 2011. The temporary safety zone is necessary for the safety of the swimmers, participant vessels, spectators, and the general public during the event. Persons and vessels would be prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before August 19, 2011. Requests for public meetings must be received by the Coast Guard on or before July 28, 2011.

ADDRESSES: You may submit comments identified by docket number USCG–2011–0575 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed

rule, call or e-mail Chief Warrant Officer Robert B. Wilson, Sector Charleston Office of Waterways Management, Coast Guard; telephone 843–740–3180, e-mail *Robert.B.Wilson@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2011–0575), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via *http://www.regulations.gov*) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via *http://www.regulations.gov,* it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, click on the ''submit a comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu select ''Proposed Rule'' and insert ''USCG–2011–0575'' in the ''Keyword'' box. Click ''Search'' then click on the balloon shape in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, click on the ''read comments'' box, which will then become highlighted in blue. In the ''Keyword'' box insert ''USCG–2011–0575'' and click ''Search.'' Click the ''Open Docket Folder'' in the ''Actions'' column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one on or before July 28, 2011 using one of the four methods specified under **ADDRESSES.** Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish regulated navigation areas and other limited access areas: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

The purpose of the rule is to ensure the safety of the swimmers, participant vessels, spectators, and the general public during the Swim Around Charleston.

Discussion of Proposed Rule

On Sunday, October 23, 2011, the Swim Around Charleston is scheduled to take place on the waters of the Wando River, the Cooper River, Charleston Harbor, and the Ashley River, in Charleston, South Carolina. The Swim Around Charleston will consist of a 10 mile swim that starts at Remley's Point on the Wando River, crosses the main shipping channel of Charleston Harbor, and finishes at the General William B. Westmoreland Bridge on the Ashley River.

The proposed rule would establish a temporary moving safety zone of a 75-yard radius around the Swim Around Charleston participant vessels that are officially associated with the swim on the waters of the Wando River, the Cooper River, Charleston Harbor, and the Ashley River, in Charleston, South Carolina. The temporary safety zone would be enforced from 10 a.m. until 4 p.m. on October 23, 2011. Persons and vessels would be prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless specifically authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels would be able to request authorization to enter, transit through, anchor in, or remain within the safety zone by contacting the Captain of the Port Charleston by telephone at 843–740–7050, or a designated representative via VHF radio on channel 16.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Executive Order 12866 and Executive Order 13563

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

The economic impact of this rule is not significant for the following reasons: (1) The safety zone would only be enforced for a total of six hours; (2) the safety zone would move with the participant vessels so that once the swimmers clear a portion of the waterway, the safety zone would no longer be enforced in that portion of the waterway; (3) although persons and vessels would not be able to enter, transit through, anchor in, or remain

within the safety zone without authorization from the Captain of the Port Charleston or a designated representative, they would be able to operate in the surrounding area during the enforcement period; (4) persons and vessels would still be able to enter, transit through, anchor in, or remain within the safety zone if authorized by the Captain of the Port Charleston or a designated representative; and (5) the Coast Guard would provide advance notification of the safety zone to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Wando River, the Cooper River, Charleston Harbor, and the Ashley River in Charleston, South Carolina encompassed within the safety zone from 10 a.m. until 4 p.m. on October 23, 2011. For the reasons discussed in the Executive Order 12866 and Executive Order 13563 section above, this proposed rule would not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Chief Warrant Officer Robert B. Wilson, Sector Charleston Office of Waterways Management, Coast Guard; telephone 843–740–3180, e-mail *Robert.B.Wilson@uscg.mil.* The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National

Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under **ADDRESSES**. This proposed rule involves establishing a temporary moving safety zone as described in figure 2–1, paragraph (34)(g), of the Instruction. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add a temporary § 165.T07–0575 to read as follows:

§ 165.T07–0575 Safety Zone; Swim Around Charleston, Charleston, SC.

(a) *Regulated Area.* The following regulated area is a moving safety zone: All waters within a 75-yard radius around Swim Around Charleston participant vessels that are officially associated with the swim. The Swim Around Charleston swimming race consists of a 10-mile course that starts at Remley's Point on the Wando River in approximate position 32°48′49″ N, 79°54′27″ W, crosses the main shipping channel of Charleston Harbor, and finishes at the General William B. Westmoreland Bridge on the Ashley River in approximate position 32°50′14″ N, 80°01′23″ W. All coordinates are North American Datum 1983.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at 843–740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective Date.* This rule is effective from 10 a.m. until 4 p.m. on October 23, 2011.

Dated: June 21, 2011.

M.F. White,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

[FR Doc. 2011–16541 Filed 6–30–11; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2011–0383; FRL–9428–1]

Revisions to the California State Implementation Plan, Antelope Valley Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Antelope Valley Air Quality Management District (AVAQMD) portion of the California State Implementation Plan (SIP). These revisions concern negative declarations for volatile organic compound (VOC) source categories for the AVAQMD. We are proposing to approve these negative declarations under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by August 1, 2011.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2011–0383, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.

2. *E-mail: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *http://www.regulations.gov* or e-mail. *http://www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available in either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Cynthia Allen, EPA Region IX, (415) 947–4120, *allen.cynthia@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the following negative declarations listed in Table I:

TABLE 1—SUBMITTED NEGATIVE DECLARATIONS

Local agency	Title	Adopted	Submitted
AVAQMD	Large Appliances, Surface Coating	09/19/06	01/31/07
AVAQMD	Wood Furniture Surface Coating	09/19/06	01/31/07
AVAQMD	Gasoline Bulk Plants	09/19/06	01/31/07
AVAQMD	Equipment Leaks from Natural Gas/Gasoline Processing Plants	09/19/06	01/31/07
AVAQMD	Leaks from Petroleum Refinery Equipment	09/19/06	01/31/07
AVAQMD	Air Oxidation Processes (SOCMI)	09/19/06	01/31/07
AVAQMD	Reactor and Distillation Processes (SOCMI)	09/19/06	01/31/07
AVAQMD	Tank Truck Gasoline Loading Terminals > 76,000 L	09/19/06	01/31/07
AVAQMD	Manufacture of Synthesized Pharmaceutical Products	09/19/06	01/31/07
AVAQMD	Manufacture of Pneumatic Rubber Tires	09/19/0	01/31/07
AVAQMD	Manufacture of High Density Polyethylene, Polypropylene and Polystyrene	09/19/06	01/31/07
AVAQMD	Equipment used in Synthetic Organic Chemical Polymers and Resin Manufacturing	09/19/06	01/31/07
AVAQMD	Refinery Vacuum-Producing Systems, Wastewater Separators and Process Unit Turnarounds.	09/19/06	01/31/07
AVAQMD	Magnetic Wire Coating Operations	09/19/06	01/31/07
AVAQMD	Ship Repair Operations	10/19/10	01/07/11
AVAQMD	Storage of Petroleum Liquids in Fixed Roof Tanks	10/19/10	01/07/11
AVAQMD	Petroleum Liquid Storage in External Floating Roof Tanks	10/19/10	01/07/11

In the Rules and Regulations section of this **Federal Register**, we are approving these negative declarations in a direct final action without prior proposal because we believe these negative declarations are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: June 14, 2011.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2011–16482 Filed 6–30–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2009–0234; EPA–HQ–OAR–2011–0044, FRL–9427–4]

RIN 2060–AP52

Proposed National Emission Standards for Hazardous Air Pollutants From Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: The EPA is announcing that the period for providing public comments on the May 3, 2011, Proposed National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units is being extended for 30 days.

DATES: *Comments.* The public comment period for the proposed rule published May 3, 2011 (76 FR 24976) is being extended for 30 days to August 4, 2011, in order to provide the public additional time to submit comments and supporting information.

ADDRESSES: *Comments.* Written comments on the proposed rule may be submitted to EPA electronically, by mail, by facsimile, or through hand delivery/courier. Please refer to the proposal for the addresses and detailed instructions.

Docket. Publicly available documents relevant to this action are available for public inspection either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

Worldwide Web. The EPA Web sites for this rulemaking are are at: *http://www.epa.gov/airquality/powerplanttoxics/actions.html* or *http://www.epa.gov/ttn/atw/utility/utilitypg.html.*

FOR FURTHER INFORMATION CONTACT: For the national emission standards for hazardous air pollutants (NESHAP) action: Mr. William Maxwell, Energy Strategies Group, Sector Policies and Programs Division, (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; Telephone number: (919) 541–5430; Fax number (919) 541–5450; E-mail address: *maxwell.bill@epa.gov.* For the new source performance standard (NSPS) action: Mr. Christian Fellner, Energy Strategies Group, Sector Policies and Programs Division, (D243–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; Telephone number: (919) 541–4003; Fax number (919) 541–5450; E-mail address: *fellner.christian@epa.gov.*

SUPPLEMENTARY INFORMATION:

Comment Period

Due to requests we have received from both the public and members of Congress to extend the public comment period for the May 3, 2011, Proposed Mercury and Air Toxics Standards Rule, the EPA is extending the public comment period for an additional 30 days. Therefore, the public comment period will end on August 4, 2011, rather than July 5, 2011.

How can I get copies of this document and other related information?

The EPA has established the official public dockets No. EPA–HQ–OAR–2011–0044 (NSPS action) or No. EPA–HQ–OAR–2009–0234 (NESHAP action). The EPA has also developed websites for these proposed rulemakings at the addresses given above.

Dated: June 24, 2011.

Gina McCarthy,

Assistant Administrator for Air and Radiation.

[FR Doc. 2011–16493 Filed 6–30–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2011–0344; FRL–9427–5]

RIN 2060–AQ68

National Emission Standards for Hazardous Air Pollutants: Secondary Lead Smelting; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: On May 19, 2011, the EPA proposed amendments to the National Emissions Standards for Hazardous Air Pollutants for Secondary Lead Smelting (76 FR 29032). The EPA is extending the deadline for written comments on the proposed amendments by 21 days to July 26, 2011. The EPA received a request for an extension from the Association of Battery Recyclers (ABR). The ABR requested an extension in order to analyze data and review the proposed amendments. The EPA finds this request to be reasonable due to the significant changes the proposal would make to the current rule.

DATES: Comments on the proposed rule published May 19, 2011 (76 FR 29032) must be received on or before July 26, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2011–0344, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov.* Attention Docket ID Number EPA–HQ–OAR–2011–0344.
- *Fax:* (202) 566–9744. Attention Docket ID Number EPA–HQ–OAR–2011–0344.
- *Mail:* U.S. Postal Service, send comments to: The EPA Docket Center (6102T), EPA West (Air Docket), Attention Docket ID Number EPA–HQ–OAR–2011–0344, U.S. Environmental Protection Agency, Mailcode 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Desk Officer for the EPA, 725 17th St., NW., Washington, DC 20503.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA West (Air Docket), Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004, Attention Docket ID Number EPA–HQ–OAR–2011–0344. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please include a total of two copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2011–0344. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed rule should be addressed to Mr. Chuck French, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Metals and Inorganic Chemicals Group (D243–02), Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number: (919) 541–7912; fax number: (919) 541–3207; e-mail address: *french.chuck@epa.gov.*

SUPPLEMENTARY INFORMATION: For the reasons noted above, the public comment period will now end on July 26, 2011.

How can I get copies of the proposed rule and other related information?

The proposed rule titled, National Emission Standards for Hazardous Air Pollutants: Secondary Lead Smelting, was published May 19, 2011 (76 FR 29032). The EPA has established the public docket for the proposed rulemaking under docket ID No. EPA–HQ–OAR–2011–0344, and a copy of the proposed rule is available in the docket. We note that, since the proposed rule was published, additional materials have been added to the docket. Information on how to access the docket

is presented above in the **ADDRESSES** section.

Dated: June 24, 2011.

Gina McCarthy,

Assistant Administrator.

[FR Doc. 2011–16496 Filed 6–30–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[EPA–HQ–OW–2011–0515; FRL–9428–3]

Phosphorus Water Quality Standards for Florida Everglades

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a rule that would identify provisions of Florida's Water Quality Standards for Phosphorus in the Everglades Protection Area (Phosphorus Rule) and Florida's Amended Everglades Forever Act (EFA) that EPA has disapproved and that therefore are not applicable water quality standards for purposes of the Clean Water Act. EPA is proposing today's rule following EPA's disapproval of these provisions and EPA's specific directions to the State of Florida to correct these deficiencies in the Phosphorus Rule and EFA. EPA's disapproval, specific directions to the State, and today's proposed rule implement two orders by the U.S. District Court for the Southern District of Florida. The intended effect of today's proposed rule is to identify only those provisions of Florida law that EPA has disapproved and that therefore are not applicable water quality standards for purposes of the Clean Water Act.

DATES: Comments must be received on or before August 1, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2011–0515 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments. This electronic docket is EPA's preferred method of receiving comments.
- *Mail:* Water Docket, U.S. Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2011–0515. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to section I.D of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OW Docket Center, which is open from 8:30 until 4:30 pm, Monday through Friday, excluding legal holidays. The OW Docket Center telephone number is (202) 566–2426, and the Docket address is OW Docket, EPA West, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20004. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744.

FOR FURTHER INFORMATION CONTACT: Mario Sengco, Standards and Health Protection Division, Office of Science and Technology, *Mail Code:* 4305T, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; *telephone number:* (202) 566–2676; *e-mail: sengco.mario@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. What entities may be affected by this rule?

Citizens concerned with water quality in Florida may be interested in this rulemaking. Entities discharging phosphorus to waters upstream of the Everglades Protection Area could be indirectly affected by the Phosphorus Rule and EFA, although not specifically by this proposed rulemaking because the current action further addresses prior disapproval by EPA of certain provisions of the Phosphorus Rule and EFA. Any indirect affect to entities would be because the water quality standards contained in the State's regulation and statute are used in determining National Pollutant Discharge Elimination System (NPDES) permit limits. With this in mind, categories and entities that may ultimately be indirectly affected include:

Category	Examples of potentially affected entities
Water Management Districts	Entities responsible for managing point source discharges near the Everglades Protection Area.
Nonpoint Source Contributors	Entities responsible for contributing nonpoint source runoff near the Everglades Protection Area.

This table is not intended to be exhaustive, but rather provides a guide for entities that may be affected by this action. This table lists the types of entities of which EPA is now aware that potentially could be affected by this action. Other types of entities not listed in the table could also be affected. Any parties or entities conducting activities within watersheds of the Florida waters covered by this rule, or who rely on, depend upon, influence, or contribute to the water quality of the Everglades Protection Area, might be affected by this rule. To determine whether your facility or activities may be affected by this action, you should examine this proposed rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. How do I get copies of this notice?

Docket. EPA has established an official public docket for this action under Docket ID No. EPA–HQ–OW–2011–0515. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Although all documents in the docket are listed in an index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available electronically through *http://www.regulations.gov* and in hard copy at the EPA Docket Center Public Reading Room, open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the public Reading Room is (202) 566–1744 and the telephone number for the Water docket is (202) 566–2426.

C. What comments will be considered and what should I consider as I prepare my comments for EPA?

(1) The public is invited to submit comments on whether EPA's proposed rule is consistent with EPA's disapprovals of the Phosphorus Rule and EFA and the Court's orders.

(2) The public is invited to submit comments regarding EPA's approach of identifying, through incorporation by reference, those provisions of the Phosphorus Rule and EFA that are not applicable water quality standards for purposes of the CWA.

(3) Do not submit confidential business information (CBI) to EPA through the *http://www.regulations.gov* portal. Contact EPA before submitting CBI by contacting the person in **FOR FURTHER INFORMATION CONTACT** section.

II. Background

EPA is proposing a rule that would identify provisions of Florida's Water Quality Standards for Phosphorus in the Everglades Protection Area (Phosphorus Rule) and Florida's Amended Everglades Forever Act (EFA) that EPA has disapproved and that therefore are not applicable water quality standards for purposes of the Clean Water Act. EPA is proposing today's rule following its disapproval of these provisions and EPA's specific directions to the State of Florida to correct these deficiencies in the Phosphorus Rule and EFA. EPA's disapproval and specific directions to the State implement two orders by the U.S. District Court for the Southern District of Florida. Pursuant to the Court's orders, EPA gave the State a period of time to correct the deficiencies. The State has not corrected the deficiencies within that time period. Therefore, EPA is proposing today's rule. The proposed rule incorporates by reference two documents that identify the specific provisions of Florida's Phosphorus Rule and EFA that are not applicable water quality standards for purposes of the Clean Water Act.

A. Statutory and Regulatory Background

Section 303(c) (33 U.S.C. 1313) of the Clean Water Act (CWA) directs States, with oversight by EPA, to adopt water quality standards to protect the public health and welfare, enhance the quality of water and serve the purposes of the CWA. Under section 303, States are required to develop water quality standards for waters of the United States within the State. Section 303(c) and EPA's implementing regulations (40 CFR Part 131) provide that water quality standards shall include designated uses of the water and water quality criteria necessary to protect those uses.

States must submit any new or revised water quality standards for EPA review and approval/disapproval. EPA must approve/disapprove any new or revised standards within 60–90 days. (Section 303(c)(3)). If EPA disapproves any standard, EPA is to specify the changes to meet the requirements of the CWA. If the changes are not adopted by the State, EPA is to promulgate standards to address the necessary changes in the State standards that EPA has disapproved. Today, EPA is proposing Federal standards to address the portions of Florida's standards that EPA disapproved and that have not been revised by the State.

B. Florida's Phosphorus Rule and Everglades Forever Act

1. Florida's Phosphorus Rule

In 2005, the Florida Department of Environmental Protection (FDEP) submitted to EPA for review pursuant to CWA section 303(c), provisions of Florida Administrative Code (''FAC'') 62–302.540 entitled ''Water Quality Standards for Phosphorus Within the Everglades Protection Area'' (Phosphorus Rule or Rule). The Rule established a numeric water quality criterion for phosphorus as well as implementing provisions for the numeric criterion within the Everglades Protection Area. In 2005 and 2006, EPA issued a series of decisions approving certain provisions of the Phosphorus Rule and concluding that other provisions were not new or revised water quality standards and did not require EPA approval/disapproval under CWA section 303(c).

2. Florida's Everglades Forever Act

The Florida Legislature enacted the Everglades Forever Act in 1994 to maintain and restore the ecosystem of the Everglades. See *Miccosukee Tribe of Indians* v. *United States,* 105 F.3d. 599, 601 (11th Cir. 1997). EPA subsequently reviewed and approved one section of the EFA (section 4(f)) as a new or revised water quality standard in 1999. The Legislature enacted amendments to the EFA in 2003. EPA reviewed the amendments and issued a decision in 2003 that the amendments were not new or revised water quality standards requiring EPA approval/disapproval under section 303(c) of the CWA.

C. Litigation and Subsequent EPA Actions

In consolidated litigation, plaintiffs challenged (1) EPA's 2003 decision that the EFA amendments were not water quality standards and (2) EPA's 2005 and 2006 decisions regarding the Phosphorus Rule. In a July 29, 2008 decision, the U.S. District Court for the Southern District of Florida upheld in part and remanded in part EPA's decisions. *Miccosukee Tribe of Indians & Friends of the Everglades* v. *U.S. Environmental Protection Agency, Florida Department of Environmental Protection, et al.,* No. 04–21488–CIV–Gold/McAliley (S.D. Fla.). The Court upheld EPA's 2005 approval of the Phosphorus Rule's numeric phosphorus criterion and the ''four-part'' test for determining attainment of the criterion. The Court overturned (1) EPA's decision that certain implementing provisions of the Phosphorus Rule were not new or revised water quality standards and (2)

EPA's approval of other provisions of the Phosphorus Rule finding EPA's approval to be arbitrary and capricious. The Court also rejected EPA's determination that the legislative amendments to the EFA did not constitute new or revised water quality standards subject to EPA review (and approval or disapproval) under section 303(c) of the CWA. The Court remanded to EPA to take further action consistent with the Court's decision.

1. EPA's December 2009 Determination

On December 3, 2009, EPA issued a new Determination in response to the Court's remand. Consistent with the Court's 2008 decision, EPA disapproved certain amendments to the EFA. It is those disapproved provisions of the EFA that are, in part, the subject of today's proposed rulemaking. In addition, EPA reviewed the provisions of the Phosphorus Rule that the Court either found were new or revised standards or that the Court had held EPA's prior approval invalid. Consistent with the Court's decision, EPA disapproved certain provisions of the Phosphorus Rule and those disapproved provisions also are the subject of today's proposed rulemaking.

2. Court's April 10, 2010 Order

Plaintiffs challenged EPA's December 2009 Determination, alleging, in part, that EPA failed to (1) specify the changes that Florida must make to the Phosphorus Rule and EFA to bring them into compliance with the CWA and (2) commit to promulgate if the State fails to act. The Court, in an order dated April 10, 2010, remanded EPA's 2009 Determination and ordered EPA to issue an Amended Determination (AD) by September 3, 2010. While the Court did not take issue with EPA's disapprovals, the Court nevertheless ordered that EPA's AD ''shall specifically direct the State of Florida to correct deficiencies in the Amended EFA and Phosphorus Rule that have been invalidated,'' attaching copies of the Rule and EFA with strikeout markings indicating the exact language from the Rule and EFA that the State must correct. Order at 44. The Court ordered that in the AD, ''EPA shall require the State of Florida to commence and complete rule-making for the Phosphorus Rule within 120 days from the date of the Amended Determination and shall require amendments to the Amended EFA to be enacted by July 1, 2011.'' Order at 44–45. The Court further ordered that ''[i]n the event the State of Florida fails to timely act, the EPA shall provide timely notice, and the EPA Administrator ''shall promulgate such standard[s]'' pursuant to 33 U.S.C. 1313(c).'' Order at 45.

3. EPA's September 3, 2010 Amended Determination

Consistent with the Court's April 14, 2010 Order, EPA gave directions to the State of Florida for correcting deficiencies in the Phosphorus Rule and Amended EFA. EPA's AD included as attachments copies of the Phosphorus Rule and EFA with strikeout markings indicating the language that the State needed to correct. EPA's AD stated that if FDEP has not finalized revisions by January 1, 2011 and the Legislature has not enacted amendments to the EFA by July 1, 2011, EPA would initiate rulemaking to promulgate standards consistent with the Court's Order.

FDEP initiated a rulemaking to adopt the necessary revisions to the Phosphorus Rule consistent with EPA's AD. However, FDEP did not complete that process by January 1, 2011. Nor has FDEP completed its rulemaking process since that date. The Florida Legislature also did not introduce or enact any amendments to the EFA consistent with EPA's AD. The Florida Legislature stands adjourned and is not scheduled to reconvene prior to July 1, 2011. Therefore, EPA is proceeding, consistent with the Court's Order and EPA's AD, to initiate the rulemaking process to promulgate Federal standards addressing the deficiencies of the Phosphorus Rule and EFA.

III. EPA's Proposal and Solicitation of Public Comments

EPA's proposed rule identifies those provisions in the Phosphorus Rule and Everglades Forever Act that EPA has disapproved and that therefore are not applicable water quality standards for purposes of the CWA. The provisions are the ones that EPA previously disapproved in December 2009 that the Court identified in its April 2010 Order and that EPA identified in its September 2010 AD. EPA's proposed rule incorporates by reference copies of the Phosphorus Rule and EFA with the strikeout markings indicating the provisions and language that are not applicable water quality standards for purposes of the CWA.

For the convenience of persons reviewing this proposal, EPA has put copies of the Phosphorus Rule and Amended Everglades Forever Act in the docket, with the strikeout markings indicating the language that EPA disapproved and that EPA's proposed rule identifies as not being applicable water quality standards for purposes of the CWA. The provisions of the Phosphorus Rule and EFA that will not be applicable water quality standards for purposes of the CWA are summarized in Tables 1 and 2.

The remaining provisions of the Phosphorus Rule and EFA in the docket either already have been approved by EPA as new or revised water quality standards (*i.e.,* are applicable water quality standards for the purposes of the CWA), or are not a water quality standard subject to EPA review and approval (or disapproval) under the Clean Water Act. As explained in the Statutory and Regulatory Background (II.A) and in the sections below, EPA is not proposing to promulgate any of the remaining provisions that EPA has approved or that are not water quality standards.

In the Court's 2010 order, the judge struck a provision in the EFA (*i.e.,* paragraph 2(l)), which defined the term ''optimization.'' In today's action, EPA is not identifying the strike out paragraph 2(l) in the EFA or paragraph 3(f) in the Phosphorus Rule because EPA did not specifically disapprove either provision in its December 2009 Determination. EPA believes that its decision not to identify these two definitions in today's proposed rule will not conflict with the objectives of the Court in its ruling because EPA disapproved the other provisions in the EFA and Phosphorus Rule where the term ''optimization'' occurs and EPA has identified those disapproved provisions in today's proposed rule.

For the convenience of the reader and to improve the readability of the documents, EPA has included a few minor text changes to the Phosphorus Rule and Amended Everglades Forever Act in the docket. These changes are identified by underline. EPA included these few text changes in its submission to the Court and the Court's April 2011 order reflects these changes. EPA added text when deletion of the disapproved language rendered the remaining text difficult to understand. In EFA section 10 for example, EPA's added text would restore language that existed prior to enactment of EFA amendments. In these sections, EPA is not proposing to establish new or revised water quality standards with these text changes, but merely to restore language that would make the remaining text easier to understand. Similarly, for ease of readability, the docket versions of the Phosphorus Rule and Amended Everglades Forever Act strike the definitions of ''optimization'' (which is defined only for the purposes of other provisions that EPA disapproved) from sections 2(l) and 3(f), respectively, as discussed above.

TABLE 1—62–302.540 PROVISIONS OF FLORIDA ADMINISTRATIVE CODE (F.A.C.) (WATER QUALITY STANDARDS FOR PHOSPHORUS WITHIN THE EVERGLADES PROTECTION AREA) THAT ARE NOT APPLICABLE WATER QUALITY STANDARDS FOR PURPOSES OF THE CLEAN WATER ACT

Section	Specific provision or language
(1)(a)	Entire paragraph.
(1)(b)(2)	Entire paragraph.
(2)(b)–(f)	Entire paragraphs and subparagraphs.
(2)(h)	Entire paragraph.
(2)(l)	Entire paragraph.
(3)(a)–(b)	Entire paragraphs.
(3)(h)	Entire paragraph.
(4)(d)(2)(c)	Sentence only, ''If these limits are not met, no action shall be required, provided that the net improvement or hydropattern restoration provisions of subsection (6) below are met.''
(5)(a)	Entire paragraph.
(5)(b)(2)–(3)	Entire paragraphs.
(5)(d)	Entire paragraph.
(6)(a)–(c)	Entire paragraphs and subparagraphs.

TABLE 2—PROVISIONS OF THE AMENDED EVERGLADES FOREVER ACT (FLORIDA STATUTE 373.4592) THAT ARE NOT APPLICABLE WATER QUALITY STANDARDS FOR PURPOSES OF THE CLEAN WATER ACT

Section	Specific provision or language
(2)(a)	Entire paragraph.
(2)(g)	Sentence 1, phrase ''are further described in the Long-Term Plan''.
(2)(j)	Entire paragraph.
(2)(p)	Entire paragraph.
(3)(b)–(e)	Entire paragraphs.
(4)(a)	Sentence 9, phrase ''design, construction, and implementation of the initial phase of the Long-Term Plan, including operation and maintenance, and research for the projects and strategies in the initial phase of the Long-Term Plan, and including''
(4)(a)(4)	Sentence 1, phrase ''however, the district may modify this schedule to incorporate and accelerate enhancements to STA ¾ as directed in the Long-Term Plan''.
(4)(a)(6)	Entire subparagraph.
(4)(e)(2)	Sentences 7, 8 and 9.
(4)(e)(3)	Sentence 3.
(10)	Sentence 1, phrase ''to implement the pre-2006 projects and strategies of the Long-Term Plan.''
	Sentence 1, phrase ''in all parts of the Everglades Protection Area''.
	Sentence 1, phrase ''and moderating provisions''.
(10)(a)	Entire paragraph.

EPA believes that its proposal to incorporate by reference documents that identify those specific provisions of the Phosphorus Rule and EFA that are not applicable water quality standards for purposes of the CWA best accomplishes the purpose of removing those provisions from consideration for future implementation within CWA programs.

EPA considered other approaches to accomplish this result and decided the approach the Agency is proposing today is the most appropriate approach. Because the Phosphorus Rule and EFA are Florida laws, EPA could not ''amend'' those state laws. EPA considered whether it should incorporate the complete Phosphorus Rule and EFA as Federal regulations and amend them accordingly. EPA concluded this approach would not be appropriate for two reasons.

First, to the extent EPA would be promulgating as Federal regulations provisions of state water quality standards that EPA has approved (or provisions associated with approved water quality standards but that are not themselves water quality standards), the CWA does not provide for such action. The CWA provides that when EPA approves a new or revised state water quality standard, ''such standard shall thereafter be the water quality standard for the applicable waters of the State.'' CWA section 303(c)(3). Only if EPA disapproves a state water quality standard or makes a determination that a new or revised water quality standard is necessary to meet the requirements of the Clean Water Act under section 303(c)(4)(B) and the state fails to make the necessary changes, does the Act direct EPA to promulgate such water quality standards for navigable waters of the state. There are many provisions of the Phosphorus Rule that EPA approved. EPA did not believe it would be appropriate to promulgate those provisions as Federal regulations.

Second, except for the disapproved provisions of the EFA amendments, EPA has not approved or disapproved the remaining provisions of the EFA (with one exception) as new or revised water quality standards under the Clean Water Act. Therefore, it would not be appropriate for EPA to promulgate such provisions as Federal water quality standards.

For these reasons, EPA concluded the best approach was to identify, through incorporation by reference, those provisions of the Phosphorus Rule and EFA that EPA disapproved and are therefore not applicable water quality standards for purposes of the CWA. EPA solicits comments on this approach.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b). This proposed action merely clarifies the water quality standards concerning the phosphorus rule and the Amended EFA statute that are not water quality standards for purposes of the CWA and does not impose any information collection burden on anyone.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this action on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

As a result of the disapproval action by EPA in December 2009, the Florida Department of Environmental Protection already needs to ensure that permits it issues do not implement the provisions identified in this rule which are not applicable water quality standards for purposes of the CWA. In doing so, the State will have a number of choices associated with permit writing. While Florida's implementation of the rule might ultimately result in some new or revised permit conditions for some dischargers, including small entities, EPA's action today would not impose any of these as yet unknown requirements on small entities. Thus, I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or Tribal governments or the private sector. This proposed action merely clarifies the water quality standards concerning the phosphorus rule and the Amended EFA and does not impose any burden on anyone. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132 (Federalism)

This action does not have Federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed action merely clarifies the water quality standards concerning the phosphorus rule and the Amended EFA and does not apply to any government other than the State of Florida.

F. Executive Order 13175

This action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000) because this is an action in which the EPA has no discretion, *i.e.,* EPA is mandated by the Court to take this action. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to EO 13045 (62 FR 19885, April 23, 1997) because it is not economically significant as defined in EO 12866 and because the Agency does not believe the environmental health risks or safety risks addressed by this action present a disproportionate risk to children.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (E.O.) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. This action is not subject to E.O. 12898 because this proposed action merely clarifies the water quality standards concerning the phosphorus rule and the Amended EFA.

List of Subjects in 40 CFR Part 131

Environmental protection, Incorporation by reference, Indians—lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control.

Dated: June 27, 2011.

Lisa P. Jackson,

Administrator.

For the reasons set out in the preamble, EPA proposes to amend 40 CFR part 131 as follows:

PART 131—WATER QUALITY STANDARDS

1. The Authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

Subpart D—[Amended]

2. Section 131.44 is added to read as follows:

§ 131.44 Florida.

(a) *Phosphorus Rule.* The document entitled ''Corrected Florida Administrative Code 62–302.540: Water Quality Standards for Phosphorus Within the Everglades Protection Area,'' (Phosphorus Rule) dated April 26, 2011 shall be added to this Subpart through an incorporation by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a). Copies of the document may be inspected and obtained from the docket associated with this rulemaking (Docket Number EPA–HQ–OW–2011–0515), at EPA's Water Docket (*Address:* 1301 Constitution Avenue, NW., EPA West, Room B102, Washington, DC 20460, *telephone number:* 202–566–2426), or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to the following Web site *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.htm.* EPA adopts and identifies the portions of the document that have strikeout markings as portions of the Phosphorus Rule that EPA disapproved on December 3, 2009, and that are not applicable water quality standards for the purposes of the Clean Water Act. Remaining portions of the Phosphorus Rule that EPA had previously approved are applicable water quality standards for the purposes of the Clean Water Act but are not codified as Federal water quality standards.

(b) *Amended Everglades Forever Act.* The document entitled ''Corrected Everglades Forever Act: Florida Statute 373.4592,'' dated April 26, 2011 shall be added to this Subpart through an incorporation by reference. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a). Copies of the document may be inspected and obtained from the docket associated with this rulemaking (Docket Number EPA–HQ–OW–2011–0515), at EPA's Water Docket (*Address:* 1301 Constitution Avenue, NW., EPA West, Room B102, Washington, DC 20460, *telephone number:* 202–566–2426 or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to the following Web site: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* EPA adopts and identifies the portions of the document that have strikeout markings as portions of the statute that EPA disapproved on December 3, 2009, and that are not applicable water quality standards for the purposes of the Clean Water Act. Remaining portions of the statute that EPA had previously approved are applicable water quality standards for the purposes of the Clean Water Act but are not codified as Federal water quality standards.

[FR Doc. 2011–16616 Filed 6–30–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 383 and 390

[Docket No. FMCSA–2011–0146]

Regulatory Guidance: Applicability of the Federal Motor Carrier Safety Regulations to Operators of Certain Farm Vehicles and Off-Road Agricultural Equipment

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice; extension of public comment period.

SUMMARY: FMCSA extends the public comment period for its May 31, 2011, notice concerning regulatory guidance on the applicability of the Federal Motor Carrier Safety Regulations to operators of certain farm vehicles and off-road agricultural equipment. The public comment period is extended from June 30, 2011, to August 1, 2011.

DATES: Comments on the notice must be received on or before August 1, 2011.

ADDRESSES: You may submit comments identified by Federal Docket Management System Number FMCSA–2011–0146 by any of the following methods

- *Web site: http://www.regulations.gov.* Follow the instructions for submitting comments on the Federal electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.
- *Hand Delivery:* Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the ''Public Participation'' heading below. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the ''Privacy Act'' heading below.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to the ground floor, room W12–140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act System of Records Notice for the DOT Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316) or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

Public Participation: The *http://www.regulations.gov* Web site is generally available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the ''help'' section of the *http://www.regulations.gov* Web site and also at the DOT's *http://docketsinfo.dot.gov* Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Thomas L. Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and

Operations, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590.

E-mail: MCPSD@dot.gov. Phone (202) 366–4325.

SUPPLEMENTARY INFORMATION:

Background

On May 31, 2011 (76 FR 31279), FMCSA published a notice requesting public comment on: (1) Previously published regulatory guidance on the distinction between interstate and intrastate commerce in deciding whether operations of commercial motor vehicles within the boundaries of a single State are subject to the Federal Motor Carrier Safety Regulations; (2) proposed guidance on the relevance of the distinction between direct and indirect compensation in deciding whether farm vehicle drivers transporting agricultural commodities, farm supplies and equipment as part of a crop share agreement are subject to the commercial driver's license regulations; and, (3) proposed guidance to determine whether off-road farm equipment or implements of husbandry operated on public roads for limited distances are considered commercial motor vehicles. The Agency indicated the guidance would be used to help ensure uniform application of the safety regulations by enforcement personnel, motor carriers and commercial motor vehicle drivers.

Since the publication of the notice, the Agency has received a letter signed by 18 U.S. Senators and numerous requests from the agricultural industry to extend the comment period. The Senators and industry acknowledged the importance of the issues covered by the notice and requested additional time to provide farmers, many of whom have planting and harvesting responsibilities during this time of the year, additional time to review the notice and consider the likely impacts of the guidance on their operations. Copies of the requests for an extension of the comment period are included in the docket referenced at the beginning of this notice.

The FMCSA acknowledges the concerns of the U.S. Senators and farmers and extends the public comment period from June 30, 2011 to August 1, 2011. The Agency will consider all comments received by close of business on August 1, 2011. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will consider to the extent practicable comments received in the public docket after the closing date of the comment period.

Issued on: June 27, 2011.

William Bronrott,

Deputy Administrator.

[FR Doc. 2011–16548 Filed 6–30–11; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

RIN 0648–BA64

Atlantic Highly Migratory Species; Vessel Monitoring Systems

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of additional public hearings.

SUMMARY: The National Marine Fisheries Service (NMFS) published a proposed rule on June 21, 2011, concerning modifications to vessel monitoring system (VMS) requirements in Atlantic Highly Migratory Species (HMS) fisheries. The proposed rule contained information on public hearings being held in Saint Petersburg, FL, New Orleans/Kenner, LA, and Atlantic City, NJ. In this notice, NMFS includes information for additional public hearings being held in Manteo, NC, and Peabody, MA.

DATES: The dates and locations for the Manteo, NC, and Peabody, MA, public hearings are in the table below. These hearings are being held in conjunction with the previously planned public hearings for the electronic dealer reporting proposed rule (76 FR 37750).

TABLE 1—DATES AND LOCATIONS FOR ADDITIONAL PUBLIC HEARINGS

Location	Date	Time	Address
Manteo, NC	July 11, 2011	5–8 p.m	Manteo Town Hall, 407 Budleigh St., Manteo, NC 27954.
Peabody, MA	July 26, 2011	1–4 p.m	Peabody Institute—West Branch, 603 Lowell Street, Peabody, MA 01960.

ADDRESSES: Please see the **DATES** section above.

FOR FURTHER INFORMATION CONTACT: Greg Fairclough (phone: 727–824–5399, fax: 727–824–5398) or Michael Clark (phone: 301–713–2347, fax: 301–713–1917).

SUPPLEMENTARY INFORMATION:

Background

See 76 FR 36071, June 21, 2011, for more information regarding the proposed rule. These additional public hearings are being added based on requests by constituents. The additional hearings will provide further opportunity for public comment during the comment period. The public comment period ends on August 1, 2011.

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

Dated: June 28, 2011.

Margo Schulze-Haugen,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2011–16620 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 76, No. 127
Friday, July 1, 2011

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 28, 2011.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: National Animal Health Monitoring System (NAHMS) Needs Assessment Surveys.

OMB Control Number: 0579–New.

Summary of Collection: Collection and dissemination of animal health data and information is mandated by 7 U.S.C. 391, The Animal Industry Act of 1884, which established the precursor of the Animal and Plant Health Inspection Service (APHIS), Veterinary Services, the Bureau of Animal Industry. Legal requirements for examining and reporting on animal disease control methods were further mandated by 7 U.S.C. 8308 of the Animal Health Protection Act, ''Detection, Control, and Eradication of Diseases and Pests,'' May 13, 2002. APHIS operates the National Animal Health Monitoring System (NAHMS), which collects nationally representative, statistically valid, and scientifically sound data on the prevalence and economic importance of livestock diseases and associated risk factors. The NAHMS program would like to administer needs assessment surveys prior to all national studies. The purpose of administering needs assessments prior to the design phase of NAHM studies is to gather producer, veterinary, and industry representatives' opinions, which help determine the focus and scope of NAHMS' studies.

Need and Use of the Information: Needs assessments ensure that the NAHMS program is driven by producer and industry interests and that the studies and reports produced by NAHMS are meeting the needs of the public. NAHMS will use the information collected during these needs assessment studies to focus on the objectives of its national studies.

Description of Respondents: Business or other for-profit.

Number of Respondents: 2,200.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 466.

Animal and Plant Health Inspection Service

Title: Gypsy Moth Identification Worksheet.

OMB Control Number: 0579–0104.l

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701—*et seq.*), the Secretary of Agriculture either independently or in cooperation with the States, is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pest new to the United States or not widely distributed throughout the United States. The Plant Protection and Quarantine (PPQ) a program within the Animal and Plant Health Inspection Service (APHIS) is responsible for implementing the intent of this ACT, and does so through the enforcement of its Domestic Quarantine Regulations contained in Title 7 of the Code of Federal Regulations (CFR) part 301. The European gypsy moth is one of the most destructive pests of fruit and ornamental trees as well as hardwood forests. The Asian gypsy moth is an exotic strain of gypsy moth that is closely related to the European variety already established in the U.S. Due to significant behavioral differences, this strain is considered to pose an even greater threat to trees and forested areas. In order to determine the presence and extent of a European gypsy moth or an Asian gypsy moth infestation, APHIS sets traps in high-risk areas to collect specimens.

Need and Use of the Information: APHIS will collect information from the Gypsy Moth Identification Worksheet, PPQ Form 305, to identify and track specific specimens that are sent to the Otis Development Center for identification tests based on DNA analysis. This information collected is vital to APHIS' ability to monitor, detect, and eradicate gypsy moth infestations and the worksheet is completed only when traps are found to contain specimens. Information on the worksheet includes the name of the submitter, the submitter's agency, the date collected, the trap number, the trap's location (including the nearest port of entry), the number of specimens in the trap, and the date the specimen was sent to the laboratory.

Description of Respondents: State, Local or Tribal Government.

Number of Respondents: 120.

Frequency of Responses: Reporting; On occasion.

Total Burden Hours: 41.

Animal Plant and Health Inspection Service

Title: Black Stem Rust; Identification Requirements and Addition of Rust-Resistant Varieties.

OMB Control Number: 0579–0186.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701—*et seq.*), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of plants and plant products to prevent the introduction of plant pests into the United States or their dissemination within the United States. Black stem rust is one of the most destructive plant diseases of small grains that are known to exist in the United States. The disease is caused by a fungus that reduces the quality and yield of infected wheat, oat, barley, and rye crops by robbing host plants of food and water.

Need and Use of the Information: APHIS will collect information to prevent the spread of black stem rust by providing for and requiring the accurate identification of rust-resistant varieties by inspectors.

Description of Respondents: Business or other for profit.

Number of Respondents: 4.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 32.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2011–16611 Filed 6–30–11; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2011–0066]

Notice of Request for Extension of Approval of an Information Collection; Revision of Hawaiian and Territorial Fruits and Vegetables Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection associated with regulations for the interstate movement of fruits and vegetables from Hawaii and the territories.

DATES: We will consider all comments that we receive on or before August 30, 2011.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS–2011–0066–0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2011–0066, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS–2011–0066* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: For information on regulations for the interstate movement of fruits and vegetables from Hawaii and the territories, contact Mr. David Lamb, Import Specialist, Regulations, Permits, and Manuals, PPQ, APHIS, 4700 River Road Unit 156, Riverdale, MD 20737; (301) 734–0627. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION:

Title: Revision of Hawaiian and Territorial Fruits and Vegetables Regulations.

OMB Number: 0579–0346.

Type of Request: Extension of approval of an information collection.

Abstract: As authorized by the Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*), the Secretary of Agriculture may prohibit or restrict the importation, entry, exportation, or movement in interstate commerce of any plant, plant product, biological control organism, noxious weed, means of conveyance, or other article if the Secretary determines that the prohibition or restriction is necessary to prevent a plant pest or noxious weed from being introduced into or disseminated within the United States. This authority has been delegated to the Animal and Plant Health Inspection Service (APHIS), which administers regulations to implement the PPA.

Under the regulations in ''Subpart—Regulated Articles From Hawaii and the Territories'' (7 CFR 318.13–1 through 318.13–26), APHIS prohibits or restricts the interstate movement of fruits and vegetables into the United States from Hawaii, Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands to prevent plant pests and noxious weeds from being introduced into and spread within the continental United States.

The regulations contain requirements for a performance-based process for approving the interstate movement of commodities that, based on the findings of a pest risk analysis, can be safely imported subject to one or more designated phytosanitary measures and for acknowledging pest-free areas. These requirements involve information collection activities, including limited permits, transit permits, compliance agreements, inspection and certification, labeling, and trapping surveillance.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies; *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.43 hours per response.

Respondents: Wholesalers and producers of fruits and vegetables; and State officials.

Estimated annual number of respondents: 600.

Estimated annual number of responses per respondent: 33.666666.

Estimated annual number of responses: 20,200.

Estimated total annual burden on respondents: 8,646 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 27th day of June 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011–16593 Filed 6–30–11; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2011–0041]

Notice of Request for Extension of Approval of an Information Collection; Self-Certification Medical Statement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request extension of approval of an information collection for self-certification medical statements.

DATES: We will consider all comments that we receive on or before August 30, 2011.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!documentDetail;D=APHIS-2011-0041-0001.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2011–0041, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0041* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: For information on self-certification medical statements, contact Mr. Eric Williams, Human Resources Specialist, Human Resources Division, APHIS, 100 N. 6th Street, Butler Square, 5th Floor, Minneapolis, MN 55403; (612) 336–3370. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851–2908.

SUPPLEMENTARY INFORMATION: *Title:* Self-Certification Medical Statement.

OMB Number: 0579–0196.

Type of Request: Extension of approval of an information collection.

Abstract: The Marketing and Regulatory Programs (MRP) agencies of the U.S. Department of Agriculture facilitate the domestic and international marketing of U.S. agricultural products and protect the health of domestic animal and plant resources. The MRP agencies are the Agricultural Marketing Service, the Animal and Plant Health Inspection Service (APHIS), and the Grain Inspection, Packers and Stockyards Administration. Resource management and administrative services, including human resource management, for the three MRP agencies are provided by the MRP Business Services unit of APHIS, which is the lead agency in providing administrative support for MRP.

In accordance with 5 CFR part 339, Federal agencies are authorized to obtain medical information from applicants for positions that have approved medical standards. Medical standards may be established for positions for which the duties are arduous or hazardous or require a certain level of health status or fitness.

Certain positions in MRP agencies have medical standards. MRP hires individuals each year in commodity grading and inspection positions. These employees work under dusty conditions, around moving machinery and slippery surfaces, and in areas with high noise levels. A potential employee may have direct contact with meat and dairy products, fresh or processed fruits and vegetables, and poultry products intended for human consumption; and/or cotton and tobacco products intended for human use.

The MRP agencies require a self-certification medical statement (MRP Form 5–R) from applicants for these positions regarding their fitness for the positions. The MRP agencies need this information to determine whether the applicants can perform the duties of the positions. Inability to collect this information would adversely affect the MRP agencies' ability to make employment decisions and determinations regarding an applicant's physical fitness to safely and efficiently perform assigned duties.

We are asking the Office of Management and Budget (OMB) to approve our use of this information collection activity for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.,* permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 0.167939 hours per response.

Respondents: Applicants for MRP positions with approved medical standards.

Estimated annual number of respondents: 524.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 524.

Estimated total annual burden on respondents: 88 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 27th day of June 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011–16597 Filed 6–30–11; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2011–0044]

Bovine Tuberculosis and Brucellosis; Program Framework

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of comment period.

SUMMARY: We are extending the comment period on a new framework being developed for the bovine tuberculosis and brucellosis programs in the United States. This action will allow interested persons additional time to prepare and submit comments.

DATES: We will consider all comments that we receive on or before July 5, 2011.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0044.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2011–0044, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0044* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Lee Ann Thomas, Director, Ruminant Health Programs, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737; (301) 734–5256.

SUPPLEMENTARY INFORMATION: On May 6, 2011, we published in the **Federal Register** (76 FR 26239, Docket No. APHIS–2011–0044) a notice that informed the public that the U.S. Department of Agriculture (USDA) is currently developing proposed revisions to its programs regarding bovine tuberculosis (TB) and bovine brucellosis in the United States. The notice stated that USDA would hold four public meetings throughout May and June 2011 to discuss a TB and brucellosis regulatory framework developed jointly by USDA and State and Tribal representatives. In that notice, we also stated that statements on the meeting topics could be filed with USDA through June 20, 2011.

We are extending the comment period on the topics discussed at the meetings until July 5, 2011. This action will allow interested persons additional time to prepare and submit comments.

The regulatory framework is available on the *Regulations.gov* Web site (see **ADDRESSES** above) and on the APHIS Web site at *http://www.aphis.usda.gov/animal_health/tb_bruc/meetings.shtml.* You may also send your comments to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to Docket No. APHIS–2011–0044 when submitting your statements.

Done in Washington, DC, this 27th day of June 2011.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2011–16598 Filed 6–30–11; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Foreign Travel Proposal

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the extension, with revision, of a currently approved information collection, Foreign Travel Proposal.

DATES: Comments must be received in writing on or before August 30, 2011 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to: USDA, Forest Service, *Attn:* Sandra Farber, International Programs Staff, P.O. Box 96090, Mail Stop 1127, Washington, DC 20090–6090.

Comments also may be submitted via facsimile to 540–659–4670, or by e-mail to: *sfarber@fs.fed.us.*

The public may inspect comments received at 1099 14th Street, NW., Suite 5500W, Washington, DC 20005, during normal business hours. Visitors are encouraged to call ahead to 202–273–4695 to facilitate entry to the building.

FOR FURTHER INFORMATION CONTACT: Sandra Farber, U.S. Forest Service International Programs, 540–659–2973. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Foreign Travel Proposal.

OMB Number: 0596–216 Expiration Date of Approval: 11/30/2011.

Type of Request: Extension with Revision.

Abstract

1. Information is needed to complete requests for foreign travel by U.S. Government employees and contractors. This information is required by the U.S. State Department, other USDA agencies and foreign embassies here in Washington, DC for passport issuance and visas.

2. All information is obtained from the traveler on the Foreign Travel Proposal.

3. Information is collected by the U.S. Forest Service, International Programs, Travel Office staff.

4. Other than normal travel requests, personal information such as date of birth, place of birth and the last four (4) digits of the social security number for employees and place of birth for contractors.

5. Each traveler submitted the form.

6. The Information collected is transferred into forms to be submitted to the U.S. State Department Passport Office, forms to the USDA Foreign Agriculture Service and into visa applications submitted to foreign embassies, for the purpose of obtaining passports and visas for the traveler.

7. U.S. Forest Service, International Programs, Travel Office.

8. Travelers will not be permitted to travel. We do not retain this information and is shredded after each trip, so a new request is required for every trip.

Estimate of Annual Burden: 15 minutes.

Type of Respondents: U.S. Government employees and or contractors.

Estimated Annual Number of Respondents: 200 individuals.

Estimated Annual Number of Responses per Respondent: This depends on how many trips the respondent takes.

Estimated Total Annual Burden on Respondents: 250 hours.

Comment Is Invited

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and

the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: June 28, 2011.

Kathleen Atkinson,

Associate Deputy Chief, Business Operations.

[FR Doc. 2011–16652 Filed 6–30–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Commitee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee will meet in Yreka, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is for the committee to hear project status, presentation and review of new project proposals and to vote and make recommendations. The meeting is open to the public. Opportunity for public comment will be provided.

DATES: The meeting will be held Monday August 15, 2011 at 4 p.m.

ADDRESSES: The meeting will be held at the Klamath National Forest Supervisor's Office, conference room, 1312 Fairlane Road, Yreka, CA 96097. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.**

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Klamath National Forest Supervisor's Office. Please call ahead to (530) 841–4484 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Kerry Greene, Community Development and Outreach Specialist, Klamath National Forest, (530) 841–4484, *kggreene@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday. Requests for reasonable accommodation for access to the facility or procedings may be made by contacting the person listed **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION: The following business will be conducted: project updates and financial status, and presentation and review of new project proposals to be considered by the RAC. This will be the last opportunity to submit new project proposals to the committee until further notice. The meeting is open to the public. Opportunity for public comment will be provided and individuals will have the opportunity to address the Committee at that time. Alternatively, anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by August 1, 2011 to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to 1312 Fairlane Road Yreka, CA 96097, or by e-mail to *kggreene@fs.fed.us,* or via facsimile to (530) 841–4571.

Dated: June 23, 2011.

Patricia A. Grantham,

Forest Supervisor.

[FR Doc. 2011–16561 Filed 6–30–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee will meet in Yreka, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is for the committee to hear project status, presentation and review of new project proposals and to vote and make recommendations. The meeting is open to the public. Opportunity for public comment will be provided.

DATES: The meeting will be held Monday July 18, 2011 at 4 p.m.

ADDRESSES: The meeting will be held at the Klamath National Forest Supervisor's Office, conference room, 1312 Fairlane Road, Yreka, CA 96097. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.**

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Klamath National Forest Supervisor's Office. Please call ahead to (530) 841–4484 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Kerry Greene, Community Development and Outreach Specialist, Klamath National Forest, (530) 841–4484, *kggreene@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday. Requests for reasonable accommodation for access to the facility or proceedings may be made by contacting the person listed For Further Information.

SUPPLEMENTARY INFORMATION: The following business will be conducted: project updates and financial status, and presentation and review of new project proposals to be considered by the RAC.

The meeting is open to the public. Opportunity for public comment will be provided and individuals will have the opportunity to address the Committee at that time. Alternatively, anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by July 1, 2011 to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to 1312 Fairlane Road, Yreka, CA 96097, or by e-mail to *kggreene@fs.fed.us,* or via facsimile to (530) 841–4571.

Dated: June 23, 2011.

Patricia A. Grantham,

Forest Supervisor.

[FR Doc. 2011–16562 Filed 6–30–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Southern Montana Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Custer and Gallatin National Forest's Resource Advisory Committee will meet in Big Timber, Montana. The committee is meeting as authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) and in compliance with the Federal Advisory Committee Act. The purpose is to review project proposals and public comments.

DATES: The meeting will be held on July 26, 2011, and will begin at 10 a.m.

ADDRESSES: The meeting will be held at the Carnegie Public Library, 34 McLeod Street, Big Timber, MT. Written comments should be sent to Babete Anderson, Custer National Forest, 1310 Main Street, Billings, MT 59105. Comments may also be sent via e-mail to *branderson@fs.fed.us,* or via facsimile to 406–657–6222.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Custer National Forest, 1310 Main Street, Billings, MT 59105. Visitors are encouraged to call ahead to 406–657–6205 ext 239.

FOR FURTHER INFORMATION CONTACT: Babete Anderson, RAC coordinator, USDA, Custer National Forest, 1310 Main Street, Billings, MT 59105; (406) 657–6205 ext 239; e-mail *branderson@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Mountain Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The following business will be conducted: (1) Reviewing project proposal for recommending Title II projects; and (2) Public Comment. Persons who wish to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting.

Dated: June 27, 2011.

Timothy W. Bond,

Acting Deputy Forest Supervisor.

[FR Doc. 2011–16557 Filed 6–30–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Rogue-Umpqua Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Rogue-Umpqua Resource Advisory Committee will meet in Roseburg, Oregon. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343) (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with the title II of the Act. The meeting is open to the public. The purpose of the meeting is to review and recommend projects for funding.

DATES: The meeting will be held July 13, 9 a.m. to 4:15 p.m., and July 14, 8:30 a.m. to 3:30 p.m.

ADDRESSES: The meeting will be held at 2900 NW. Stewart Parkway, Roseburg, Oregon, in the Umpqua National Forest Supervisor's Office in the Diamond Lake Conference Room. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.**

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Umpqua National Forest Supervisor's Office, 2900 NW. Stewart Parkway, Roseburg, OR. Please call ahead to 541–672–6601 to facilitate entry into the building to view comments.

FOR FURTHER INFORMATION CONTACT: Cheryl Caplan, Public Affairs Officer, Umpqua National Forest, 541–957–3270 or *ccaplan@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday. Requests for reasonable accommodation for access to the facility or proceedings may be made by contacting the person listed in **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: The following business will be conducted: Approval of agenda and minutes, public forum opportunity, election of chair, and review and recommendation of individual fiscal year 2012 Title II project nominations. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by July 13 to be scheduled on the agenda. Written comments and requests for time for oral comments must be sent to Umpqua National Forest ATTN: Cheryl Caplan, 2900 NW. Stewart Parkway, Roseburg, OR 97471, or by e-mail to *ccaplan@fs.fed.us,* or via facsimile to 541–957–3495.

Dated: June 23, 2011.

Joyce E. Thompson,

Acting Forest Supervisor.

[FR Doc. 2011–16423 Filed 6–30–11; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Applications for Rural Business Opportunity Grants

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: Pursuant to 7 CFR part 4284, subpart G, the Rural Business-Cooperative Service (RBS), an Agency within the Rural Development mission area, announces the availability of

grants of up to $50,000 per application for single-state projects from the Rural Business Opportunity Grant (RBOG) program for Fiscal Year (FY) 2011, to be competitively awarded. For multi-state projects, grant funds of up to $150,000 will be available on a competitive basis. These limits do not apply to specific funding for certain specifically designated rural areas as discussed below. For FY 2011, approximately $2.5 million is available and will be distributed as follows: $990,000 is reserved for projects benefitting Federally Recognized Native American Tribes (FRNAT) in rural areas and $1,488,000 is unreserved. Applicants should note that in FY 2010 the RBOG program was highly competitive. Approximately $2.5 million was available in reserved and unreserved funds. The Agency received 430 applications and was able to fund 27 applications, a rate of 6 percent.

DATES: The deadline for the receipt of both paper and electronic applications is August 1, 2011. Any applications received after the deadline will not be considered for FY 2011 funding.

ADDRESSES: Entities wishing to apply for assistance should contact a Rural Development State Office for further information and copies of the application package. Applications may be submitted in electronic or paper format. Electronic applications must be submitted through *http://www.grants.gov* by following the directions posted for the RBOG program. Paper applications must be submitted to the USDA Rural Development State Office in the State where your project is located or, in the case of multi-state projects, in the State where the majority of the work will be conducted. A list of the USDA Rural Development State Office addresses and telephone numbers are as follows:

Alabama

USDA Rural Development State Office, Sterling Centre, Suite 601, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3400/TDD (334) 279–3495.

Alaska

USDA Rural Development State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645–6539, (907) 761–7705/TDD (907) 761–8905.

Arizona

USDA Rural Development State Office, 230 N. 1st Ave., Suite 206, Phoenix, AZ 85003, (602) 280–8701/TDD (602) 280–8705.

Arkansas

USDA Rural Development State Office, 700 West Capitol Avenue, Room 3416, Little Rock, AR 72201–3225, (501) 301–3200/TDD (501) 301–3279.

California

USDA Rural Development State Office, 430 G Street, #4169, Davis, CA 95616–4169, (530) 792–5800/TDD (530) 792–5848.

Colorado

USDA Rural Development State Office, Denver Federal Center, Building 56, Room 2300, P.O. Box 25426, Denver, CO 80225–0426, (720) 544–2903.

Connecticut (See Massachusetts)

Delaware/Maryland

USDA Rural Development State Office, 1221 College Park Drive, Suite 200, Dover, DE 19904, (302) 857–3580/TDD (302) 857–3585.

Florida/Virgin Islands

USDA Rural Development State Office, 4440 NW 25th Place, P.O. Box 147010, Gainesville, FL 32614–7010, (352) 338–3400/TDD (352) 338–3499.

Georgia

USDA Rural Development State Office, Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2162/TDD (706) 546–2034.

Hawaii

USDA Rural Development State Office, Federal Building, Room 311, 54 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8380/TDD (808) 933–8321.

Idaho

USDA Rural Development State Office, 9173 West Barnes Drive, Suite A1, Boise, ID 83709, (208) 378–5600/TDD (208) 378–5644.

Illinois

USDA Rural Development State Office, 2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403–6200/TDD (217) 403–6240.

Indiana

USDA Rural Development State Office, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (317) 290–3100/TDD (317) 290–3343.

Iowa

USDA Rural Development State Office, Federal Building, Room 873, 210 Walnut Street, Des Moines, IA 50309, (515) 284–4663/TDD (515) 284–4858.

Kansas

USDA Rural Development State Office, 1303 S.W. First American Place, Suite 100, Topeka, KS 66604–4040, (785) 271–2700/TDD (785) 271–2767.

Kentucky

USDA Rural Development State Office, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7300/TDD (859) 224–7422.

Louisiana

USDA Rural Development State Office, 3727 Government Street, Alexandria, LA 71302, (318) 473–7921/TDD (318) 473–7655.

Maine

USDA Rural Development State Office, 967 Illinois Avenue, Suite 4, P.O. Box 405, Bangor, ME 04402–0405, (207) 990–9160/TDD (207) 942–7331.

Maryland (See Delaware)

Massachusetts/Rhode Island/Connecticut

USDA Rural Development State Office, 451 West Street, Suite 2, Amherst, MA 01002–2999, (413) 253–4300/TDD (413) 253–4590.

Michigan

USDA Rural Development State Office, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5190/TDD (517) 324–5169.

Minnesota

USDA Rural Development State Office, 375 Jackson Street, Suite 410, St. Paul, MN 55101–1853, (651) 602–7800/TDD (651) 602–3799.

Mississippi

USDA Rural Development State Office, Federal Building, Suite 831, 100 West Capitol Street, Jackson, MS 39269, (601) 965–4316/TDD (601) 965–5850.

Missouri

USDA Rural Development State Office, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0976/TDD (573) 876–9480.

Montana

USDA Rural Development State Office, 2229 Boot Hill Court, Bozeman, MT 59715–7914, (406) 585–2580/TDD (406) 585–2562.

Nebraska

USDA Rural Development State Office, Federal Building, Room 152, 100 Centennial Mall North, Lincoln, NE 68508, (402) 437–5551/TDD (402) 437–5093.

Nevada

USDA Rural Development State Office, 1390 South Curry Street, Carson City, NV 89703–5146, (775) 887–1222/TDD (775) 885–0633.

New Hampshire (See Vermont)

New Jersey

USDA Rural Development State Office, 8000 Midlantic Drive, 5th Floor North, Suite 500, Mt. Laurel, NJ 08054, (856) 787–7700/TDD (856) 787–7784.

New Mexico

USDA Rural Development State Office, 6200 Jefferson Street NE., Room 255, Albuquerque, NM 87109, (505) 761–4950/TDD (505) 761–4938.

New York

USDA Rural Development State Office, The Galleries of Syracuse, 441 South Salina Street, Suite 357, Syracuse, NY 13202–2541, (315) 477–6400/TDD (315) 477–6447.

North Carolina

USDA Rural Development State Office, 4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2000/TDD (919) 873–2003.

North Dakota

USDA Rural Development State Office, Federal Building, Room 208, 220 East Rosser, P.O. Box 1737, Bismarck, ND 58502–1737, (701) 530–2037/TDD (701) 530–2113.

Ohio

USDA Rural Development State Office, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2418, (614) 255–2400/TDD (614) 255–2554.

Oklahoma

USDA Rural Development State Office, 100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1000/TDD (405) 742–1007.

Oregon

USDA Rural Development State Office, 1201 NE Lloyd Blvd., Suite 801, Portland, OR 97232, (503) 414–3300/TDD (503) 414–3387.

Pennsylvania

USDA Rural Development State Office, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2299/TDD (717) 237–2261.

Puerto Rico

USDA Rural Development State Office, IBM Building, Suite 601, 654 Munos Rivera Avenue, San Juan, PR 00918–6106, (787) 766–5095/TDD (787) 766–5332.

Rhode Island (see Massachusetts).

South Carolina

USDA Rural Development State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 765–5163/TDD (803) 765–5697.

South Dakota

USDA Rural Development State Office, Federal Building, Room 210, 200 Fourth Street, SW., Huron, SD 57350, (605) 352–1100/TDD (605) 352–1147.

Tennessee

USDA Rural Development State Office, 3322 West End Avenue, Suite 300, Nashville, TN 37203–1084, (615) 783–1300.

Texas

USDA Rural Development State Office, Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (254) 742–9700/TDD (254) 742–9712.

Utah

USDA Rural Development State Office, Wallace F. Bennett Federal Building, 125 South State Street, Room 4311, Salt Lake City, UT 84138, (801) 524–4320/TDD (801) 524–3309.

Vermont/New Hampshire

USDA Rural Development State Office, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 828–6000/TDD (802) 223–6365.

Virgin Islands (See Florida)

Virginia

USDA Rural Development State Office, 1606 Santa Rosa Road, Suite 238, Richmond, VA 23229–5014, (804) 287–1550/TDD (804) 287–1753.

Washington

USDA Rural Development State Office, 1835 Black Lake Boulevard SW., Suite B, Olympia, WA 98512–5715, (360) 704–7740/TDD (360) 704–7760.

West Virginia

USDA Rural Development State Office, 75 High Street, Room 320, Morgantown, WV 26505–7500, (304) 284–4860/TDD (304) 284–4836.

Wisconsin

USDA Rural Development State Office, 4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7600/TDD (715) 345–7614.

Wyoming

USDA Rural Development State Office, 100 East B, Federal Building, Room 1005, P.O. Box 11005, Casper, WY 82602–5006, (307) 233–6700/TDD (307) 233–6733.

U.S. Territories

Guam (See Hawaii)

Western Pacific (See Hawaii)

FOR FURTHER INFORMATION CONTACT: Office of the Deputy Administrator, Cooperative Programs, Rural Business-Cooperative Service, United States Department of Agriculture, 1400 Independence Avenue, SW., MS–3250, Room 4016–South, Washington, DC 20250–3250, (202) 720–8460.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Business-Cooperative Service (RBS).

Funding Opportunity Type: Rural Business Opportunity Grants.

Announcement Type: Funding Announcement.

Catalog of Federal Domestic Assistance Number: 10.773.

DATES: Application Deadline: Applications must be received no later than August 1, 2011, to be eligible for FY 2011 grant funding. Applications received after this date will not be eligible for FY 2011 grant funding.

I. Funding Opportunity Description

The RBOG program is authorized under section 306(a)(11) of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1926(a)(11)). The program regulations are found at 7 CFR part 4284, subpart G and are incorporated by reference in this Notice. In addition, the General requirements for Cooperative Services Grant Programs found at 7 CFR part 4284, subpart A, also apply and are also incorporated by reference in this Notice. The USDA Rural Development State Offices administer the RBOG program on behalf of USDA Rural Development at the State level. The primary objective of the program is to improve the economic conditions of rural areas. Assistance provided to rural areas under this program may include technical assistance for business development and economic development planning. To ensure that a broad range of communities have the opportunity to benefit from the program, no grant will exceed $50,000, unless it is a multi-State project, in which case, the maximum grant amount is $150,000. As indicated in the summary, these limits do not apply to any specified funding for rural areas designated as FRNAT.

Definitions

The definitions are published at 7 CFR 4284.603.

II. Award Information

Type of Award: Grant.

Fiscal Year Funds: FY 2011.

Total Funding: $2,478,000 distributed as follows: $990,000 is reserved for projects benefitting FRNAT in rural areas and $1,488,000 is unreserved.

Approximate Number of Awards: 27.

Maximum Award: $50,000 for single-State projects; $150,000 for multi-State projects; no limit for FRNAT projects.

Anticipated Award Date: September 30, 2011.

III. Eligibility Information

A. Eligible Applicants

Grants may be made to public bodies, nonprofit corporations, Indian tribes on Federal or State reservations and other federally recognized tribal groups, and cooperatives with members that are primarily rural residents and that conduct activities for the mutual benefit of the members. For additional information on applicant eligibility, please see 7 CFR 4284.620.

B. Cost Sharing or Matching

Matching funds are not required.

C. Other Eligibility Requirements

Applications must propose to use project funds, including grant and any leveraged funds, for eligible grant purposes, as described in 7 CFR 4284.621. Ineligible grant purposes are listed in 7 CFR 4284.629.

D. Completeness Eligibility

Applications will not be considered for funding if they do not provide sufficient information to determine eligibility or are missing required elements. The required elements of a

complete application can be found at 7 CFR 4284.638.

IV. Fiscal Year 2011 Application and Submission Information

A. Address To Request Application Package

For further information, entities wishing to apply for assistance should contact the USDA Rural Development State Office identified in the **ADDRESSES** section of this notice to obtain copies of the application package.

To submit applications electronically through the Grants.gov Web site at: *http://www.grants.gov.* Applications may not be submitted electronically in any way other than through *Grants.gov.*

- When you enter the *Grants.gov* Web site, you will find information about submitting an application electronically through the site as well as the hours of operation. USDA Rural Development strongly recommends that you do not wait until the application deadline date to begin the application process through *Grants.gov.* Applicants must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number, which can be obtained at no cost via a toll-free request line at 1–866–705–5711.
- Similarly, applicants must maintain registration in the Central Contractor Registration (CCR) database, in accordance with 2 CFR Part 215. Applicants may register for the CCR at *https://www.uscontractorregistration.com/,* or by calling (877) 252–2700.
- You must submit all documents electronically through the Web site, including all information typically included on the application for RBOGs and all necessary assurances and certifications.
- After electronically submitting an application through the Web site, the applicant will receive an automatic acknowledgement from *Grants.gov* that contains a Grants.gov tracking number.
- USDA Rural Development may request that the applicant provide original signatures on forms at a later date.

Please note that applicants can locate the downloadable application package for this program by using a keyword, the program name, the Catalog of Federal Domestic Assistance Number, or the Funding Opportunity Number.

B. Content and Form of Submission

An application must contain all of the required elements as described at 7 CFR 4284.638. Copies of 7 CFR part 4284, subpart G, will be provided to any interested applicant making a request to a USDA Rural Development State Office listed in this notice, or can be obtained at the Rural Development web link: *http://www.rurdev.usda.gov/rd_instructions.html.*

C. Submission Date and Time

Application Deadline date: August 1, 2011.

Explanation of Deadlines: Paper applications must be in the USDA Rural Development State Office by the deadline date, 4 p.m. local time. Electronic applications submitted through *Grants.gov* will be accepted by the system through midnight eastern time on the deadline date.

V. Application Review Information

Each application will be reviewed to determine if it is eligible for assistance based on the requirements in 7 CFR part 4284, subpart G as well as other applicable Federal regulations. Eligible applications will be tentatively scored by the USDA Rural Development State Offices and submitted to the National Office for final review and selection. Note that each selection priority criterion outlined in 7 CFR 4284.639 must be addressed in the application. Failure to address any of the criteria will result in a zero-point score for that criterion and will impact the overall evaluation of the application.

The National Office will review the scores based on the grant selection criteria and weights contained in 7 CFR 4284.639. Applications for FRNAT designated funds will be funded in rank order and must achieve a score of at least 60 points out of a possible of 100 points for criteria paragraphs (a) through (e) in order to be funded.

Applicants are advised that the Administrator reserves the right to award discretionary points as designated in 7 CFR 4284.639(f). For this FY, the Administrator may consider awarding these discretionary points to applications that propose to engage in regional economic development activities in the key strategy areas of: (1) Creating or supporting local and regional food systems (especially supporting the creation of retail outlets of healthy foods in areas that lack sufficient outlets), (2) creating or supporting renewable energy generation, (3) using broadband or other critical infrastructure to create economic development, (4) creating or supporting access to capital in rural areas, and (5) creating or supporting innovative utilization of natural resources for economic development.

Applicants who wish to be considered for these discretionary points must provide the following additional information in their applications: (1) A description of the multi-county or multi-State region that will be the focus of the project, (2) a narrative description that identifies how the project will primarily support one of the five key strategies described above, (3) a narrative description identifying the partnerships that will be utilized or created to accomplish the regional economic development work, and (4) a narrative description of how the proposed project is expected to become a ''best practice'' that can be transferred to another region or key strategy area.

The Administrator will consider the applications providing this information for discretionary points by assessing how the project evidences the following: (1) Clear leadership, (2) a common economic basis shared by the counties or States within the region, (3) capacity of the key personnel and partnering organizations to complete the proposed work, (4) collaboration with and/or investment from a broad range of institutions, (5) broad citizen participation in the proposed project, (6) demographic diversity in the region, and (7) adequate funding to disadvantaged communities.

VI. Award Administration Information

A. Award Notices

Successful applicants will receive notification regarding funding from the USDA Rural Development State Office. Applicants must comply with all applicable statutes and regulations before the grant award will be approved. Unsuccessful applicants will receive notification, including mediation procedures and appeal rights, by mail.

B. Administrative and National Policy Requirements

Additional requirements that apply to grantees selected for this program can be found in 7 CFR part 4284, subpart G, parts 3015, 3016, 3019, 3052, and 2 CFR part 417. All recipients of Federal financial assistance are required to comply with the Federal Funding Accountability and Transparency Act of 2006 and must report information about subawards and executive compensation in accordance with 2 CFR part 170.

VII. Agency Contacts

For general questions about this announcement, please contact the USDA Rural Development State Office located in your State as identified in the **ADDRESSES** section of this notice.

Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis

of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (braille, large print, audiotape, *etc.*) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

To file a complaint of discrimination, write to USDA, Assistant Secretary for Civil Rights, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW., Stop 9410, Washington, DC 20250–9410, or call toll-free at (866) 632–9992 (English) or (800) 877–8339 (TDD) or (866) 377–8642 (English Federal-relay) or (800) 845–6136 (Spanish Federal-relay). USDA is an equal opportunity provider, lender, and employer.

Appeal Process

All adverse determinations regarding applicant eligibility and the awarding of points as part of the selection process are appealable pursuant to 7 CFR part 11. Instructions on the appeal process will be provided at the time an applicant is notified of the adverse decision.

Dated: June 23, 2011.

Judith A. Canales,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2011–16555 Filed 6–30–11; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Census Employment Inquiry.

OMB Control Number: 0607–0139.

Form Number(s): BC–170A, BC–170B, BC–170D.

Type of Request: Revision of a currently approved collection.

Burden Hours: 16,250.

Number of Respondents: 65,000.

Average Hours per Response: 15 minutes.

Needs and Uses: The Census Bureau requests continued OMB approval for the BC–170A, BC–170B, and the BC–170D, Census Employment Inquiry. We are also requesting minor modifications to the data collected. The BC–170 is used to collect information such as personal data and work experience from job applicants. Selecting officials review the information shown on the form to evaluate an applicant's eligibility for employment and to determine the best qualified applicants to fill Census jobs.

The BC–170 is completed by job applicants before or at the time they are tested. Selecting officials will review the information shown on the form and determine the applicant's employment suitability. Failure to collect this information could result in the hiring of unsuitable and/or unqualified workers.

The BC–170 is used throughout the census and intercensal periods for the special census, pretests, and dress rehearsals for short-term time limited appointments. Applicants completing the form BC–170D for a census related position are applying for temporary jobs in office and field positions (clerks, enumerators, crew leaders, supervisors). In addition, as an option to the OF–612, Optional Application for Federal Employment, the BC–170A may be used when applying for temporary/permanent office and field positions (clerks, field representatives, supervisors) on a recurring survey in one of the Census Bureau's 12 Regional Offices (ROs) throughout the United States. The Form BC–170B is used for special censuses for temporary field positions (enumerators).

The use of this form is limited to only situations which require the establishment of a temporary office and/or involve special, one-time or recurring survey operations at one of the ROs. In preparation for the next decennial census, the BC–170 is intended to expedite hiring and selection in situations requiring large numbers of temporary employees for assignments of a limited duration. The form has been demonstrated to meet our recruitment needs for temporary workers and requires significantly less burden than the Office of Personnel Management (OPM) Optional Forms that are available for use by the public when applying for Federal positions.

The form has been slightly modified for specific usage by each of the three areas of usage. The variation of forms by operation is to collect specific data needed based on the nature of the operation. The area of difference relates to the collection of work history. A cover sheet is attached to each respective BC–170 to provide applicants with a brief description of their prospective job duties with the Census Bureau; the cover sheet message will vary for decennial, special censuses, or recurring survey positions.

Affected Public: Individuals.

Frequency: One time.

Respondent's Obligation: Required to obtain benefits.

Legal Authority: Title 13 U.S.C. 23a and c.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: June 28, 2011.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–16566 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Sensors and Instrumentation Technical Advisory Committee; Notice of Partially Closed Meeting

The Sensors and Instrumentation Technical Advisory Committee (SITAC) will meet on July 26, 2011, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

Agenda

Public Session

1. Welcome and Introductions.
2. Remarks from the Bureau of Industry and Security Management.
3. Industry Presentations.
4. New Business.

Closed Session

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yspringer@bis.doc.gov* no later than July 19, 2011.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that the materials be forwarded before the meeting to Ms. Springer.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 14, 2010 pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of this meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information contact Yvette Springer on (202) 482–2813.

Dated: June 28, 2011.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2011–16665 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (''the Act''), may request, in accordance with 19 CFR 351.213 of the Department of Commerce (''the Department'') regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not-collapse companies for purposes of respondent selection. Parties are requested to (a) Identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Opportunity To Request a Review: Not later than the last day of July 2011,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in July for the following periods:

[1] Or the next business day, if the deadline falls on a weekend, Federal holiday or any other day when the Department is closed.

	Period of review
Antidumping Duty Proceedings	
Finland: Carboxymethylcellulose, A–405–803	7/1/10–6/30/11
Germany: Stainless Steel Sheet and Strip in Coils, A–428–825	7/1/10–6/30/11
India: Polyethylene Terephthalate (PET) Film, A–533–824	7/1/10–6/30/11
Iran: In-Shell Pistachios, A–507–502	7/1/10–6/30/11
Italy:	
Certain Pasta, A–475–818	7/1/10–6/30/11
Stainless Steel Sheet and Strip in Coils, A–475–824	7/1/10–6/30/11
Japan:	
Clad Steel Plate, A–588–838	7/1/10–6/30/11
Stainless Steel Sheet and Strip in Coils, A–588–845	7/1/10–6/30/11
Polyvinyl Alcohol, A–588–861	7/1/10–6/30/11
Mexico:	
Stainless Steel Sheet and Strip in Coils, A–201–822	7/1/10–6/30/11
Carboxymethylcellulose, A–201–834	7/1/10–7/10/10
Netherlands: Carboxymethylcellulose, A–421–811	7/1/10–6/30/11
Russia:	
Solid Urea, A–821–801	7/1/10–6/30/11
Ferrovanadium and Nitrided Vanadium, A–821–807	7/1/10–6/30/11
South Korea: Stainless Steel Sheet and Strip in Coils, A–580–834	7/1/10–6/30/11
Sweden: Carboxymethylcellulose, A–401–808	7/1/10–7/10/10
Taiwan:	
Polyethylene Terephthalate (PET) Film, A–583–837	7/1/10–6/30/11
Stainless Steel Sheet and Strip in Coils, A–583–831	7/1/10–6/30/11
Thailand: Carbon Steel Butt-Weld Pipe Fittings, A–549–807	7/1/10–6/30/11
The People's Republic of China:	
Carbon Steel Butt-Weld Pipe Fittings, A–570–814	7/1/10–6/30/11
Certain Potassium Phosphate Salts, A–570–962	3/16/10–6/30/11
Steel Grating, A–570–947	1/6/10–6/30/11
Circular Welded Carbon Quality Steel Pipe, A–570–910	7/1/10–6/30/11
Persulfates, A–570–847	7/1/10–6/30/11
Saccharin, A–570–878	7/1/10–6/30/11
Turkey: Certain Pasta, A–489–805	7/1/10–6/30/11
Ukraine: Solid Urea, A–823–801	7/1/10–6/30/11
Countervailing Duty Proceedings	
India: Polyethylene Terephthalate (PET) Film, C–533–825	1/1/10–12/31/10
Italy: Certain Pasta, C–475–819	1/1/10–12/31/10
The People's Republic of China:	
Potassium Phosphate Salts, C–570–963	3/8/10–12/31/10
Steel Grating, C–570–948	11/3/09–12/31/10
Circular Welded Carbon-Quality Steel Pipe, C–570–911	1/1/10–12/31/10
Pre-Stressed Concrete Steel Wire Strand, C–570–946	11/2/09–12/31/10
Turkey: Certain Pasta, C–489–806	1/1/10–12/31/10
Suspension Agreements	
Russia: Certain Hot-Rolled Carbon Steel Flat Products, A–821–809	7/1/10–6/30/11

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of

[2] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

merchandise subject to antidumping findings and orders. *See also* the Import Administration Web site at *http://ia.ita.doc.gov.*

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Operations, Attention: Sheila Forbes, in room 3508 of the main Commerce Building. Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of July 2011. If the Department does not receive, by the last day of July 2011, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period, of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 28, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–16630 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for August 2011

The following Sunset Reviews are scheduled for initiation in August 2011 and will appear in that month's Notice of Initiation of Five-Year Sunset Reviews.

	Department Contact
Antidumping Duty Proceedings	
Tapered Roller Bearings and Parts Thereof from the PRC (A–570–601) (3rd Review)	Julia Hancock (202) 482–1394
Silicomanganese from the PRC (A–570–828) (3rd Review)	Julia Hancock (202) 482–1394
Silicomanganese from Brazil (A–351–824) (3rd Review)	Dana Mermelstein (202) 482–1391
Silicomanganese from Ukraine (A–823–805) (3rd Review)	Dana Mermelstein (202) 482–1391
Lined Paper Products (a.k.a. Lined Paper School Supplies) from India (A–533–843)	David Goldberger (202) 482–4136
Lined Paper Products (a.k.a. Lined Paper School Supplies) from Indonesia (A–560–818)	David Goldberger (202) 482–4136
Lined Paper Products (a.k.a. Lined Paper School Supplies) from the PRC (A–570–901)	David Goldberger (202) 482–4136
Ball Bearings and Parts Thereof from France (A–427–801)(3rd Review)	Dana Mermelstein (202) 482–1391
Ball Bearings and Parts Thereof from Germany (A–428–801)(3rd Review)	Dana Mermelstein (202) 482–1391
Ball Bearings and Parts Thereof from Italy (A–475–801)(3rd Review)	Dana Mermelstein (202) 482–1391
Ball Bearings and Parts Thereof from Japan (A–588–804)(3rd Review)	Dana Mermelstein (202) 482–1391
Ball Bearings and Parts Thereof from United Kingdom (A–412–801) (3rd Review)	Dana Mermelstein (202) 482–1391
Countervailing Duty Proceedings	
Lined Paper Products (a.k.a. Lined Paper School Supplies) from India (C–533–844)	David Goldberger (202) 482–4136
Lined Paper Products (a.k.a. Lined Paper School Supplies) from Indonesia (C–560–819)	David Goldberger (202) 482–4136

Suspended Investigations

No Sunset Review of suspended investigations is scheduled for initiation in August 2011.

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998). The Notice of Initiation of Five-Year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 21, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–16625 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–839, A–583–833]

Certain Polyester Staple Fiber From the Republic of Korea and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On March 1, 2011, the Department of Commerce (the Department) initiated the second sunset reviews of the antidumping duty orders on polyester staple fiber (PSF) from the Republic of Korea (Korea) and Taiwan, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-Year (''Sunset'') Review,* 76 FR 11202 (March 1, 2011) (*Notice of Initiation*). The Department has conducted expedited (120-day) sunset reviews of these orders. As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping as indicated in the ''Final Results of Reviews'' section of this notice.

DATES: *Effective Date:* July 1, 2011.

FOR FURTHER INFORMATION CONTACT: Michael A. Romani or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0198 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2011, the Department initiated sunset reviews of the antidumping duty orders on PSF from Korea and Taiwan pursuant to section 751(c) of the Act. *See Notice of Initiation.* The Department received a notice of intent to participate from DAK Americas, LLC, Palmetto Synthetics LLC, and U.S. Fibers (collectively, the domestic interested parties) within the deadline specified in 19 CFR 351.218(d)(1)(i). The domestic interested parties claimed interested-party status under section 771(9)(C) of the Act as manufacturers of a domestic like product in the United States. We received a complete substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no responses from any respondent interested parties. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department is conducting expedited (120-day) sunset reviews of the antidumping duty orders on PSF from Korea and Taiwan.

Scope of the Orders

The product covered by the orders is PSF. PSF is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to the orders may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 5503.20.00.20 is specifically excluded from the orders. Also specifically excluded from the orders are PSF of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting). In addition, low-melt PSF is excluded from the orders. Low-melt PSF is defined as a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner core.

The merchandise subject to the orders is currently classifiable in the HTSUS at subheadings 5503.20.00.45 and 5503.20.00.65. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the orders is dispositive.

Analysis of Comments Received

All issues raised in these reviews are addressed in the ''Issues and Decision Memorandum for the Expedited Sunset Reviews of the Antidumping Duty Orders on Certain Polyester Staple Fiber from the Republic of Korea and Taiwan'' from Gary Taverman, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated concurrently with this notice (Issues and Decision Memo), which is hereby adopted by this notice. The issues discussed in the Issues and Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail if the orders were revoked. Parties can find a complete discussion of all issues raised in these sunset reviews and the corresponding recommendations in this public memorandum which is on file in room 7046 of the main Commerce Department building.

In addition, a complete version of the Issues and Decision Memo can be accessed directly on the Internet at *http://ia.ita.doc.gov.* The paper copy and electronic version of the Issues and Decision Memo are identical in content.

Final Results of Reviews

The Department determines that revocation of the antidumping duty orders on PSF from Korea and Taiwan

would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Country	Company	Weighted-average margin (percent)
Korea	Sam Young	7.91
	All Others	7.91
Taiwan ...	Far Eastern	11.50
	Nan Ya	3.79
	All Others	7.31

Notification Regarding Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Timely written notification of the destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

The Department is issuing and publishing these final results and this notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: June 24, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011–16651 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating a five-year review (''Sunset Review'') of the antidumping and countervailing duty orders and suspended investigation listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

DATES: *Effective Date:* July 1, 2011.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders: Policy Bulletin,* 63 FR 18871 (April 16, 1998).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating the Sunset Review of the following antidumping and countervailing duty orders and suspended investigation:

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–583–803	731–TA–410	Taiwan	Light-Walled Rectangular Welded Carbon Steel Pipe & Tube (3rd Review).	Dana Mermelstein, (202) 482–1391.
A–533–808	731–TA–638	India	Stainless Steel Wire Rod (3rd Review)	Dana Mermelstein, (202) 482–1391.
A–533–502	731–TA–271	India	Welded Carbon Steel Pipe & Tube (3rd Review).	Dana Mermelstein, (202) 482–1391.
A–549–502	731–TA–252	Thailand	Welded Carbon Steel Pipe & Tube (3rd Review).	Dana Mermelstein, (202) 482–1391.
A–580–810	731–TA–540	South Korea	Welded ASTM A–312 Stainless Steel Pipe (3rd Review).	Dana Mermelstein, (202) 482–1391.
A–583–815	731–TA–541	Taiwan	Welded ASTM A–312 Stainless Steel Pipe (3rd Review).	Dana Mermelstein, (202) 482–1391.
A–583–008	731–TA–132	Taiwan	Certain Circular Welded Carbon Steel Pipes & Tubes (3rd Review).	Dana Mermelstein, (202) 482–1391.
A–351–809	731–TA–532	Brazil	Circular Welded Non-Alloy Steel Pipe (3rd Review).	Dana Mermelstein, (202) 482–1391.
A–201–805	731–TA–534	Mexico	Circular Welded Non-Alloy Steel Pipe (3rd Review).	Dana Mermelstein, (202) 482–1391.
A–583–814	731–TA–536	Taiwan	Circular Welded Non-Alloy Steel Pipe (3rd Review).	Dana Mermelstein, (202) 482–1391.
A–580–809	731–TA–533	South Korea	Circular Welded Non-Alloy Steel Pipe (3rd Review).	David Goldberger, (202) 482–4136.
A–489–501	731–TA–273	Turkey	Welded Carbon Steel Pipe & Tube (3rd Review).	David Goldberger, (202) 482–4136.
C–489–502	701–TA–253	Turkey	Welded Carbon Steel Pipe & Tube (3rd Review).	David Goldberger, (202) 482–4136.
A–821–802	731–TA–539–C	Russia	Uranium (3rd Review) (Suspension Agreement).	Sally Gannon, (202) 482–0162.

Filing Information

As a courtesy, we are making information related to Sunset proceedings, including copies of the pertinent statue and Department's regulations, the Department schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the

public on the Department's Internet Web site at the following address: ''*http://ia.ita.doc.gov/sunset/.''* All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules can be found at 19 CFR 351.303.

This notice serves as a reminder that any party submitting factual information in an antidumping duty or countervailing duty (AD/CVD) proceeding must certify to the accuracy and completeness of that information. *See* section 782(b) of the Act. Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD/CVD investigations or proceedings initiated on or after March 14, 2011. *See Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule,* 76 FR 7491 (February 10, 2011) (*Interim Final Rule*), amending 19 CFR 351.303(g)(1) and (2). The formats for the revised certifications are provided at the end of the *Interim Final Rule.* The Department intends to reject factual submissions in investigations/proceedings initiated on or after March 14, 2011 if the submitting party does not comply with the revised certification requirements.

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required from Interested Parties

Domestic interested parties defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b) wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review. *See* 19 CFR 351.218(d)(1)(iii).

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in the Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 for definitions of terms and for other general information concerning AD/CVD proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: June 21, 2011.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2011–16623 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–DS–P

[1] In comments made on the interim final sunset regulations, a number of parties stated that the proposed five-day period for rebuttals to substantive responses to a notice of initiation was insufficient. This requirement was retained in the final sunset regulations at 19 CFR 351.218(d)(4). As provided in 19 CFR 351.302(b), however, the Department will consider individual requests to extend that five-day deadline based upon a showing of good cause.

DEPARTMENT OF COMMERCE

International Trade Administration

Transportation Infrastructure/ Multimodal Products and Services Trade Mission to Doha, Qatar, and Abu Dhabi and Dubai, United Arab Emirates

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The U.S. Department of Commerce, International Trade Administration, U.S. Commercial Service is organizing a senior executive-led trade mission for multi-modal transportation and infrastructure development products and services to Doha, Qatar and Abu Dhabi and Dubai, United Arab Emirates (U.A.E) on October 29–November 3, 2011. The mission is designed to contribute to President Obama's National Export Initiative, which aims to double U.S. exports by 2015 while supporting two million American jobs, by increasing exports of products and services that contribute to infrastructure development projects in Qatar and U.A.E.

The mission will help U.S. companies already doing business in Qatar or the U.A.E. increase their current level of exports and exposure, and will help experienced U.S. exporters, which have not yet done business in Qatar or the U.A.E. enter these markets in support of job creation in the United States. Participating firms will gain market information, connect with key business and government decision makers, solidify business strategies, and/or advance specific projects. In each of these important sectors, participating U.S. companies will meet with prescreened potential partners, agents, distributors, representatives, and licensees. The agenda will also include meetings with high-level national and local government officials, networking opportunities, country briefings, and seminars.

The industry sectors for this mission will include, but are not limited to: multimodal freight transportation systems, products and technologies, including port development, airport development, freight rail systems and technologies, supply chain systems and strategies; mass transportation systems; advanced vehicle technologies and intelligent transportation systems and related services and software; and other relevant products and services.

The delegation will be composed of 15 qualified U.S. firms representing the

industry sectors noted above. Representatives of the U.S. Department of Transportation and the Export-Import Bank of the United States (Ex-Im) will be invited to participate (as appropriate) to provide information and counseling on their programs as they relate to the markets in Qatar and the U.A.E.

Commercial Setting

Qatar

The United States continues to be the largest exporter to Qatar, accounting for 14% of the total import market. U.S. exports have surged by 495 percent, from $454 million in 2003 to $2.7 billion in 2009. Qatar is the fifth largest U.S. export destination in the Middle East, making it an important market for U.S. small and medium-sized businesses.

Qatar is one of the richest countries per capita in the world, with GDP per capita valued at $90,000. In 2010, total GDP was valued at $128 billion. The IMF predicts that Qatar will grow by 20% in 2011. The World Bank announced that Qatar is the most economically competitive in the Middle East. Taken together, this has led foreign firms to increase their investment in Qatar's infrastructure, making it one of the most prosperous markets in the Middle East.

Qatar's success in winning the 2022 World Cup Nation Host opens up a constellation of opportunities for U.S. business. The country plans to spend up to $100 billion in infrastructure projects between now and the World Cup in 2022, including roads, bridges, highways, railways, ports, and related consultancy services. Qatar's transportation infrastructure also benefits significantly with respect to Qatar's current domestic growth environment. Its road transportation structure has been operating at capacity, with a strong need to expand the system. Currently, road infrastructure is the only mode of transportation, which is one of the major causes for heavy congestion throughout the country. There are excellent opportunities for U.S. engineers, program management firms, and manufacturers to contribute to the creation of new transport infrastructure projects (*i.e.,* railways, roads, ports, bridges, and highways), along with improved traffic safety systems.

The Prime Minister, Sheikh Hamad bin Jassim, has stated that a significant share of Qatar's budget will be for infrastructure development, and it will be completely self-financed. As much as 30% of the budget is reportedly earmarked for infrastructure upgrades, such as the New Doha International Airport, New Doha Seaport, the Doha Expressway Project, roads, and related program management services. The country continues to maintain high levels of capital spending on major projects, which will reach $12 billion in 2010–2011 compared with $10.4 billion in 2009–2010, representing a 15% year-on-year increase.

U.A.E.

The U.A.E. is the largest U.S. export market in the Middle East/North Africa region, the second largest economy in the region, and presents qualified American companies with opportunities to expand their products and services to a fast growing market. The U.A.E. is the logistics and business services hub for the wider region. The 2009 GDP for the U.A.E. was $231.3 billion and the 2009 per capita income was $42,000. Despite the recent global financial crisis, the United States and the U.A.E. have continued their long-term trade and investment relationship. Exports between both countries have increased almost every year since 1971, when the U.A.E. was established.

The United States exported over $12 billion worth of products to the U.A.E. in 2009, representing a 237 percent increase since 2002. The United States is the third largest exporter to the U.A.E. and enjoys a very large trade surplus and a strong trading and investment relationship. The U.A.E. is among the Middle East region's leaders in terms of openness to international trade and investment and political stability. It has successfully developed itself into the largest logistics hub in the wider region, with the second-largest man-made port in the world at Jebel Ali, and the fourth busiest airport in the world. It is making major investments in infrastructure and economic diversification, resulting in significant export opportunities for U.S. firms. The U.A.E is developing key transportation infrastructure projects including: Port Khalifa and industrial zone at Taweelah; the new $8 billion Union Railway project; the $6.7 billion expansion of Abu Dhabi International Airport; the construction of the new Maktoum Airport, which will eventually have five runways; and public transportation systems, such as the expansion of the Dubai metro and the construction of the Abu Dhabi metro and light rail. The goods, services and know-how necessary for the construction and profitable operation of these new systems, particularly those related to multi-modal freight and intelligent supply chain management, provides significant business opportunities in areas where U.S. companies excel. U.S. products enjoy favorable tariffs that generally do not exceed five percent.[1]

Other Products and Services

The foregoing analysis of export opportunities in Qatar and the U.A.E. is not intended to be exhaustive, but illustrative of the many opportunities in these markets available to U.S. businesses. Other products and services that contribute to the energy and infrastructure development of Qatar and the U.A.E. also may have great potential. Applications from companies selling products and services within the scope of this mission, but not specifically identified in this Mission Statement, will be considered and evaluated by the U.S. Department of Commerce. Companies whose products do not fit the scope of the mission may contact their local U.S. Export Assistance Center (USEAC) to learn about other trade missions and services that may provide more targeted export opportunities. Companies may call 1–800–872–8723, or e-mail: *tic@trade.gov* to obtain such information. This information also may be found on the Department's Web site: *http://www.export.gov.*

Mission Goals

This Business Development Mission will demonstrate the United States' commitment to a sustained economic engagement with Qatar and the U.A.E. The mission will combine policy dialogue and business development for U.S. firms. Additionally, the mission will advance the Administration's goal to broaden and deepen the U.S. exporter base and support the President's National Export Initiative by providing individual participants with business opportunities to achieve export success in these markets.

In support of these goals, the mission's purpose is to support participants as they construct a firm foundation for future business in Qatar and the U.A.E., and specifically aims to:

- Provide participants with market information about the local infrastructure that will contribute to increasing U.S. exports to the Qatari and U.A.E. markets.
- Assist in identifying potential end-users and partners (including potential agents, distributors, and licensee partners) and business strategies for U.S. companies to gain access to the Qatari and U.A.E. markets.
- Provide an opportunity to participate in policy and regulatory framework discussions with Qatari and

[1] World Trade Organization: Latest Available MFN Applied Tariffs At HS 6 (2007).

U.A.E. government officials and private sector representatives to advance U.S. market access interests in these markets.

• Confirm U.S. Government support for U.S. business activities in Qatar and the U.A.E. and to provide access to senior government decision makers from Qatar and U.A.E.

Mission Scenario

During the mission to Qatar and the U.A.E., the participants will:

• Meet with high-level Qatari and Emirati government officials.

• Meet with prescreened potential partners, agents, distributors, representatives and licensees.

• Meet with representatives of the Chambers of Commerce, industry and trade associations.

• Attend briefings conducted by Embassy officials on the economic and commercial climates.

Receptions and other business events will be organized to provide mission participants with additional opportunities to speak with local business and government representatives, as well as U.S. business executives living and working in the region.

Proposed Timetable

The mission program will begin at 5:00 pm, Saturday, October 29, 2011 and run through the evening of Thursday, November 3, 2011. Participants are encouraged to arrive on or before October 29, 2011.

Saturday, October 29 (weekend)	Doha, Qatar. No-Host Welcome Dinner.
Sunday October 30	Doha, Qatar. Market Briefing by U.S. Embassy Officials. Meetings with Senior Qatari Government Officials. Business Event/Briefing with Local Industry Representatives. Networking Reception.
Monday, October 31	Doha, Qatar. One-on-One Business Meetings for the Delegation. Evening Travel to Abu Dhabi, UAE.
Tuesday, November 1	Abu Dhabi, UAE. Market Briefing by U.S. Embassy Officials. Meetings with Senior UAE and Abu Dhabi Government Officials. Business Event/Briefing with Local Industry Representatives. One-on-One Business Meetings for the Delegation. Networking reception.
Wednesday, November 2	Abu Dhabi, UAE. One-on-one business matchmaking appointments. Travel to Dubai Dubai, UAE. Networking reception.
Thursday, November 3	Dubai, UAE. Meetings with Senior Dubai Government Officials. Business Event/Briefing with Local Industry Representatives. One-on-One Business Meetings for the Delegation. Closing Dinner.

Participation Requirements

All parties interested in participating in the Business Development Mission to Qatar and the U.A.E. must complete and timely submit an application package for consideration by the U.S. Department of Commerce. All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. The mission is designed to select a a maximum of 15 companies to participate in the mission from the applicant pool. U.S. companies already doing business in the target markets, as well as U.S. companies seeking to enter these markets for the first time, are encouraged to apply.

Fees and Expenses

After a company has been selected to participate on the mission, a payment to the Department of Commerce in the form of a participation fee is required. The participation fee will be $4259 for large firms and $3707 for a small or medium-sized enterprise (SME),[2] which will cover the principal (one) representative. The fee for each additional firm representative (large firm or SME) is $800. Local transportation, including transport between mission cities, is included in the participation fee.

Expenses for travel, lodging, some meals, and incidentals will be the responsibility of each mission participant. Air transportation from the United States (or point of origin) to Qatar and return to the United States is the responsibility of the participant. Business visas may be required. Government fees and processing expenses to obtain such visas are also not included in the mission costs. However, the U.S. Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

Conditions for Participation

An applicant must timely submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary market objectives, and goals for participation. If the U.S. Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications.

Selection Criteria for Participation

Selection will be based on the following criteria in decreasing order of importance:

[2] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (*see http://www.sba.gov/services/contracting opportunities/sizestandardstopics/index.html*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008 (*see http://www.export.gov/newsletter/march2008/initiatives.html* for additional information).

• Consistency of a company's products or services with the scope and desired outcome of the mission's goals;

• Suitability of a company's products or services to the Qatari and U.A.E. markets and the likelihood of a participating company's increased exports to or business interests in these markets as a result of this mission;

• Demonstrated export experience in Qatar, the U.A.E., or other foreign markets; Additional factors, such as diversity of company size, type, location, and demographics, may also be considered during the review process.

Referrals from political organizations and any documents, including the application, containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Selection Timeline

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar—*http://www.trade.gov/trade-missions/*—and other Internet Web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

The Commerce Department's Office of Business Liaison and the International Trade Administration will explore and welcome outreach assistance from other interested organizations, including other U.S. government agencies.

Applications can be completed on-line at the Qatar and U.A.E. Business Development Mission Web site at *http://www.trade.gov/QatarUAEMission2011* or can be obtained by contacting Jessica Arnold (202–482–1856/*qataruaemission2011@trade.gov*). The application deadline is Monday, July 15th, 2011, unless extended by the Department of Commerce. Applications received after Monday, July 15th, 2011, will be considered only if space and scheduling constraints permit.

Contacts

U.S. Commercial Service Domestic Contact:
Ms. Jessica Arnold,
Phone: (202) 482–2026/Fax: (202) 482–1900,
E-mail: *QatarUAEMission2011@trade.gov.*

U.S. Commercial Service Qatar Contact:
Mr. Dao Le,
U.S. Commercial Service, Doha, Qatar,
Tel: 011–974–488–4101/Fax: 011–974–488–4163,
E-mail: *Dao.Le@trade.gov.*

U.S. Commercial Service U.A.E. Contact:
Ms. Laurie Farris,
U.S. Commercial Service, Abu Dhabi, UAE,
Phone: 011–971–2–414–2665/Fax: 011–971–2–414–2228,
E-mail: *Laurie.Farris@trade.gov.*

Elnora Moye,

U.S. Department of Commerce, Commercial Service Trade Mission Program, Tel: 202–482–4204, E-mail: elnora.moye@trade.gov.

[FR Doc. 2011–16549 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Fishermen's Contingency Fund

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 30, 2011.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Paul Marx, Chief, Financial Services Division (301) 427–8725 or *paul.marx@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

United States (U.S.) commercial fishermen may file claims for compensation for losses of or damage to fishing gear or vessels, plus 50 percent of resulting economic losses, attributable to oil and gas activities on the U.S. Outer Continental Shelf. To obtain compensation, applicants must comply with requirements set forth in 50 CFR part 296. The requirements include a report within 15 days of the date the vessel first returns to port after the incident, to gain a presumption of eligible causation, and an application form.

The report form (NOAA Form 88–166) requests identifying information such as the claimant's name, address, phone number, and social security number. It also requests information pertaining to the casualty, such as the location of the obstruction, the date and time of the casualty, identification of the vessel involved, and the date the vessel first returned to port after the casualty.

The application (NOAA Form 88–164) consists of a property loss section and a section for economic loss. The property loss section requests the same identifying information contained in the initial report. It also requests information such as the amount and type of damage claimed, description of the casualty and likely causes, efforts to recover gear, description of proofs of ownership, estimates of repair or replacement costs, and identification of witnesses. The economic loss section requests information pertaining to economic loss and consequential damages resulting from the casualty. This includes the length of trips and income from those trips prior to the casualty, number of gear units lost, date replacement gear was ordered and received or the date repairs were commenced and completed. This section also requests information regarding consequential damages such as extra fuel consumption or claim preparation fees. The application also includes inventory schedules which lists the amounts of gear involved in the casualty, its purchase date, purchase cost, and repair or replacement cost. The application includes an affidavit by which the claimant attests to the truthfulness of the claim.

II. Method of Collection

Paper forms are used for applications, and reports are made by telephone.

III. Data

OMB Control Number: 0648–0082.

Form Number: NOAA Forms 88–164, 88–166.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Individuals or households; business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time per Response: 10 hours for an application, and 5 minutes for a report.

Estimated Total Annual Burden Hours: 1,008.

Estimated Total Annual Cost to Public: $500.00.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 28, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–16553 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Coral Reef Conservation Program Survey

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 30, 2011.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Christy Loper, (301) 713–3000 Ext 125 or at *Christy.Loper@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a new information collection.

The purpose of this information collection is to obtain information from individuals in the seven United States (U.S.) jurisdictions containing coral reefs. Specifically, NOAA is seeking information on the knowledge, attitudes and reef use patterns, as well as information on knowledge and attitudes related to specific reef protection activities. In addition, this survey will provide for the ongoing collection of social and economic data related to the communities affected by coral reef conservation programs.

The Coral Reef Conservation Program (CRCP), developed under the authority of the Coral Reef Conservation Act of 2000, is responsible for programs intended to enhance the conservation of coral reefs. NOAA intend to use the information collected through this instrument for research purposes as well as measuring and improving the results of our reef protection programs. Because many of the efforts to protect reefs rely on education and changing attitudes toward reef protection, the information collected will allow CRCP staff to ensure programs are designed appropriately at the start, future program evaluation efforts are as successful as possible, and outreach efforts are targeting the intended recipients with useful information.

II. Method of Collection

Information will be collected in the means most efficient and effective in the individual jurisdiction. For the three years covered by this clearance NOAA expect to use face-to-face interviews in American Samoa, internet-based survey techniques in Hawaii and Florida, and telephone and internet as appropriate in Commonwealth of the Northern Mariana Islands, Guam, Puerto Rico, and the U.S. Virgin Islands.

III. Data

OMB Control Number: None.

Form Number: NA.

Type of Review: Regular submission (request for a new information collection).

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,834.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 917.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 27, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–16525 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–JS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; StormReady™, TsunamiReady™ and StormReady/TsunamiReady™ Application Forms

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 30, 2011.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Donna Franklin, (301) 713–0090 x141 or *donna.franklin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for revision of a currently approved information collection. The StormReady Program, like the TsunamiReady and StormReady/TsunamiReady programs also in this information collection, is a voluntary program offered to provide guidance and incentive to officials who wish to improve their hazardous weather operations, e.g. community preparedness and local warning dissemination. Applicants fill out a detailed application that demonstrates how they meet certain guidelines that qualify them for StormReady recognition. The full StormReady recognition is not appropriate for all entities, yet they should still be recognized for their efforts in preparing for hazardous weather. To this end, the National Weather Service created the StormReady Supporter program. StormReady Supporter is a voluntary program offered to provide guidance and incentive to entities, such as local hospitals or businesses, who wish to improve their respective hazardous weather preparations. Entities will use the application to apply for a one-time StormReady Supporter recognition. The government will use the application form to determine whether an entity has met the guidelines for a StormReady Supporter recognition.

II. Method of Collection

Applications will be submitted on paper (faxed or mailed) or electronically.

III. Data

OMB Control Number: 0648–0419.

Form Number: None.

Type of Review: Regular submission (revision of a currently approved information collection).

Affected Public: Non-profit institutions; business or other for-profit organizations.

Estimated Number of Respondents: 270 (30 for new form).

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 510 (30 for new form).

Estimated Total Annual Cost to Public: $123 ($15 for new form).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 27, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–16523 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–KE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; National Saltwater Angler Registry and State Exemption Program

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 30, 2011.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Gordon Colvin (301–427–8118) or *Gordon.Colvin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is an extension of a currently approved collection.

The National Saltwater Angler Registry Program (Registry Program) was established to implement recommendations included in the review of national saltwater angling data collection programs conducted by the National Research Council (NRC) in 2005/2006, and the provisions of the Magnuson-Stevens Reauthorization Act, codified at Section 401(g) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), which require the Secretary of Commerce to commence improvements to recreational fisheries surveys, including establishing a national saltwater angler and for-hire vessel registry, by January 1, 2009. A final rule that includes regulatory measures to implement the Registry Program (Regulation Identifier Number (RIN) 0648–AW10) was adopted and codified in 50 CFR 600.1400 to 600.1417.

The Registry Program collects identification and contact information from those anglers and for-hire vessels who are involved in recreational fishing in the United States Exclusive Economic Zone or for anadromous fish in any waters, unless the anglers or vessels are exempted from the registration requirement. The data that is collected includes: for anglers—name, address, date of birth, telephone contact information and region(s) of the country in which they fish; for for-hire vessels—owner and operator name, address, date of birth, telephone contact information, vessel name and registration/documentation number and home port or primary operating area. This information is compiled into a national and/or series of regional registries that is being used to support surveys of recreational anglers and for-hire vessels to develop estimates of recreational angling effort.

The Secretary is to also exempt from the federal registration requirement those anglers and vessels that are licensed or registered by a state if the state provides sufficient identification and contact information for use in recreational surveys.

II. Method of Collection

Persons may register in two ways: Via a toll-free telephone number or on line

at a NOAA-maintained Web site. Registration cards, valid for one year from the date of issuance, are mailed to registrants.

III. Data

OMB Control Number: 0648–0578.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Individuals or households; business or other for-profit organizations.

Estimated Number of Respondents: 2,024,691.

Estimated Time per Response: Anglers and spear fishers: 2 minutes; for-hire fishing vessels: 3 minutes.

Estimated Total Annual Burden Hours: 67,530.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 28, 2011.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2011–16594 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RIN 0648–XA479]

International Fisheries; Atlantic Highly Migratory Species; Bluefin Tuna Import, Export, Re-Export

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of non-compliance with international commission standards.

SUMMARY: Through the International Commission for the Conservation of Atlantic Tunas (ICCAT), it has come to the attention of NMFS that Libyan vessels may not be meeting ICCAT requirements for Atlantic bluefin tuna fishing in the Mediterranean. NMFS advises importers to take great care with respect to any import of Atlantic bluefin tuna harvested by Libyan vessels in 2011, as these shipments may have been illegally harvested and could be subject to increased scrutiny and potential liability.

FOR FURTHER INFORMATION CONTACT: Questions relating to permits or regulations may be directed to Margo Schulze-Haugen at (301) 713–2334, and questions relating to ICCAT requirements may be directed to Rebecca Lent at (301) 427–8368.

SUPPLEMENTARY INFORMATION: Libya's inability to participate in the ICCAT regional observer program this year as confirmed by the ICCAT Administration, and its current failure to transmit vessel monitoring system (VMS) data is of primary concern. ICCAT requires that large scale (> 24 m) purse seine vessels fishing for eastern Atlantic and Mediterranean bluefin tuna carry an ICCAT-assigned regional observer and transmit certain data directly to ICCAT using a satellite-based vessel monitoring system. ICCAT requirements provide that such purse seine vessels without an ICCAT-placed observer shall not be authorized to fish or to operate in the bluefin tuna fishery. Thus, any product taken by Libya's purse seine fleet under these conditions in 2011 would not be in compliance with ICCAT conservation and management measures.

Failure to implement these ICCAT requirements is subject to action at the national and international levels. In that regard, other ICCAT members that import bluefin tuna, in particular Japan and the European Union, have indicated that they will prohibit the import of Libyan-caught bluefin tuna if harvested in 2011 contrary to the requirements of ICCAT. The United States has implemented through regulation its obligation under ICCAT's Bluefin Catch Document program to require, as a condition of importation into the United States and conduct of other transactions (such as export and re-export), that all bluefin tuna shipments be accompanied by a properly completed catch document that has been validated by a government official or other authorized individual of the flag or exporting State (unless the fish are tagged) (73 FR 31380, June 2, 2008). Improperly documented bluefin tuna may be prohibited from importation into the United States or be subject to other sanctions.

Dated: June 28, 2011.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2011–16619 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA527

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Habitat/MPA/Ecosystem Advisory Panel, in July, 2011, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, July 20, 2011 at 9 a.m.

ADDRESSES: This meeting will be held at the Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048; *telephone:* (508) 339–2200; *fax:* (508) 339–1040.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; *telephone:* (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Advisory Panel will discuss measures to minimize the adverse effects of fishing on EFH and measures to protect deep-sea corals as well as review the decision document prepared by the Plan Development Team. The Panel will also provide guidance to the Committee on these issues. Other topics may be discussed at the Chair's discretion.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those

issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 27, 2011.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2011–16536 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RIN: 0648–XA530]

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Monkfish Advisory Panel, in July, 2011, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on Tuesday, July 19, 2011 at 9 a.m.

ADDRESSES: The meeting will be held at the Crowne Plaza, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 777–2500; fax: (978) 750–7959.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Monkfish Advisory Panel (AP) will meet to develop a detailed problem statement based on the list of issues identified by the Advisory Panel and Monkfish Oversight Committee. The Oversight Committee has requested that the Advisory Panel provide details, specificity and examples of the issues in the list for the purpose of developing recommended goals and objectives for Amendment 6 to the Monkfish Fishery Management Plan. In Amendment 6, the New England and Mid-Atlantic Fishery Management Councils are considering adopting catch shares management programs in one or both monkfish management areas. The Advisory Panel detailed list of issues will be forwarded to the Oversight Committee for review at its next meeting.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 28, 2011.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2011–16586 Filed 6–30–11; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RIN 0648–XA343]

Takes of Marine Mammals Incidental to Specified Activities; Marine Geophysical Survey in the Western Gulf of Alaska, June to August, 2011

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of an incidental take authorization (ITA).

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulation, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the Lamont-Doherty Earth Observatory of Columbia University (L–DEO) to take marine mammals, by Level B harassment, incidental to conducting a marine geophysical survey in the western Gulf of Alaska (GOA), June to August, 2011.

DATES: Effective June 28 to September 4, 2011.

ADDRESSES: A copy of the IHA and application are available by writing to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910 or by telephoning the contacts listed here.

A copy of the application containing a list of the references used in this document may be obtained by writing to the above address, telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*. The following associated documents are also available at the same Internet address: ''Environmental Assessment of a Marine Seismic Survey in the Gulf of Alaska July–August 2011'' (EA) prepared by the National Science Foundation (NSF), and ''Environmental Assessment of a Marine Geophysical Survey by the R/V *Marcus G. Langseth* in the western Gulf of Alaska, July–August 2011,'' prepared by LGL Ltd., Environmental Research Associates (LGL), on behalf of NSF and L–DEO. The NMFS Biological Opinion will be available online at: *http://www.nmfs.noaa.gov/pr/consultation/opinions.htm*. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Jolie Harrison, Office of Protected Resources, NMFS, 301–427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the MMPA (16 U.S.C. 1371 (a)(5)(D)) directs the Secretary of Commerce (Secretary) to authorize, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if

certain findings are made and, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization for the incidental taking of small numbers of marine mammals shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). The authorization must set forth the permissible methods of taking, other means of effecting the least practicable adverse impact on the species or stock and its habitat, and requirements pertaining to the mitigation, monitoring and reporting of such takings. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) of the MMPA establishes a 45-day time limit for NMFS's review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the public comment period, NMFS must either issue or deny the authorization.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

16 U.S.C. 1362(18).

Summary of Request

NMFS received an application on April 1, 2010, from L–DEO for the taking by harassment, of marine mammals, incidental to conducting a marine geophysical survey in the western GOA within the U.S. Exclusive Economic Zone (EEZ) in depths from approximately 25 meters (m) (82 feet [ft]) to greater than 6,000 m (19,685 ft). The cruise was postponed in 2010 and rescheduled for 2011. NMFS received a revised application on March 4, 2011 from L–DEO. L–DEO plans to conduct the survey from approximately June 28 to August 4, 2011. On May 6, 2011, NMFS published a notice in the **Federal Register** (76 FR 26255) disclosing the effects on marine mammals, making preliminary determinations and including a proposed IHA. The notice initiated a 30 day public comment period.

L–DEO plans to use one source vessel, the R/V *Marcus G. Langseth* (*Langseth*) and a seismic airgun array to collect seismic reflection and refraction profiles from the Shumagin Islands to east of Kodiak Island in the GOA. In addition to the operations of the seismic airgun array, L–DEO intends to operate a multibeam echosounder (MBES) and a sub-bottom profiler (SBP) continuously throughout the survey.

Acoustic stimuli (*i.e.,* increased underwater sound) generated during the operation of the seismic airgun array may have the potential to cause a short-term behavioral disturbance for marine mammals in the survey area. This is the principal means of marine mammal taking associated with these activities and L–DEO has requested an authorization to take 16 species of marine mammals by Level B harassment. Take is not expected to result from the use of the MBES or SBP, for reasons discussed in this notice; nor is take expected to result from collision with the vessel because it is a single vessel moving at a relatively slow speed during seismic acquisition within the survey, for a relatively short period of time (approximately 38 days). It is likely that any marine mammal would be able to avoid the vessel.

Description of the Specified Activity

L–DEO's planned seismic survey in the western GOA, from the Shumagin Islands to east of Kodiak Island, will take place during June to August, 2011, in the area 52.5° to 59° North, 147.5° to 161° West (see Figure 1 of the IHA application). The seismic survey will take place in water depths ranging from 25 m (82 ft) to greater than 6,000 m (82 to 19,685 ft) and consists of approximately 2,553 kilometers (km) (1,378.5 nautical miles [nmi]) of transect lines in the study area. The project is scheduled to occur from approximately June 28 to August 4, 2011. Some minor deviation from these dates is possible, depending on logistics and weather.

The seismic survey will collect seismic reflection and refraction data to characterize the subduction zone off southern Alaska, which produces large and destructive earthquakes. The data from this study will be used to: (1) Estimate the size of the seismogenic zone, the portion of the fault that controls the magnitude of earthquakes, and (2) provide critical information on how the properties of the seismogenic zone change along the subduction zone such that some areas produce large earthquakes and others do not. The study focuses on the Semidi segment, whose earthquake recurrence interval is 50 to 75 years and which last ruptured in 1938.

The survey will involve one source vessel, the *Langseth*. The *Langseth* will deploy an array of 36 airguns as an energy source at a tow depth of 12 m (39.4 ft). The receiving system will consist of two 8 km (4.3 nmi) long hydrophone streamers and/or 21 ocean bottom seismometers (OBSs). As the airguns are towed along the survey lines, the hydrophone streamers will receive the returning acoustic signals and transfer the data to the on-board processing system. The OBSs record the returning acoustic signals internally for later analysis.

The planned seismic survey (*e.g.,* equipment testing, startup, line changes, repeat coverage of any areas, and equipment recovery) will consist of approximately 2,553 km of transect lines in the western GOA survey area (see Figure 1 of the IHA application). Just over half of the survey (1,363 km [736 nmi]) will take place in water deeper than 1,000 m; 30% or 754 km (407.1 nmi) will be surveyed in intermediate depth (100 to 1,000 m) water; and 17% (463 km [250 nmi]) will take place in water less than 100 m deep. Approximately 30 km (16.2 nmi) of seismic surveying will occur in water less than 40 m deep. A refraction survey using OBSs will take place along two lines (lines 3 and 5). Following the refraction survey, a multichannel (MCS) survey using two hydrophone streamers will take place along all of the transect lines. Thus, lines three and five will be surveyed twice. In addition to the operations of the airgun array, a Kongsberg EM 122 MBES and Knudsen 320B SBP will also be operated from the *Langseth* continuously throughout the cruise. There will be additional seismic operations associated with equipment testing, start-up, and possible line changes or repeat coverage of any areas where initial data quality is sub-standard. In L–DEO's calculations, 25% has been added for those additional operations.

All planned geophysical data acquisition activities will be conducted by L–DEO, the *Langseth*'s operator, with on-board assistance by the scientists

who have planned the study. The Principal Investigators are Drs. Donna Shillington, Spahr Webb, and Mladen Nedimovic, all of L–DEO. The vessel will be self-contained, and the crew will live aboard the vessel for the entire cruise.

Description of the Dates, Duration, and Specified Geographic Region

The survey will occur in the western GOA in the area 52.5° to 59° North, 147.5 to 161° West. The seismic survey will take place in water depths of 25 m to greater than 6,000 m. The *Langseth* will depart from Kodiak, Alaska on approximately June 28, 2011. The program will start with a refraction survey using OBSs. Approximately 21 OBSs will be deployed along one line; the OBSs will then be retrieved and re-deployed along the next refraction line. OBS deployment will take approximately three days and recovery will take approximately five days; there will be a total of approximately three days of refraction shooting. Following the refraction survey, the MCS survey will take place using the two streamers. MCS and airgun deployment will take approximately three days, and there will be approximately 13 days of MCS operations. Upon completion of seismic operations, all gear will be picked up and the vessel will travel to Dutch Harbor, for arrival on approximately August 4, 2011. Seismic operations in the study area will be carried out for approximately 16 days. Some minor deviation from this schedule is possible, depending on logistics and weather (*i.e.,* the cruise may depart earlier or be extended due to poor weather; there could be an additional three days of seismic operations if collected data are deemed to be of substandard quality).

NMFS outlined the purpose of the program in a previous notice for the proposed IHA (76 FR 26255, May 6, 2011). The activities to be conducted have not changed between the proposed IHA notice and this final notice announcing the issuance of the IHA. For a more detailed description of the authorized action, including vessel and acoustic source specifications, the reader should refer to the proposed IHA notice (76 FR 26255, May 6, 2011), the IHA application, EA, and associated documents referenced above this section.

Comments and Responses

A notice of receipt of the L–DEO application and proposed IHA was published in the **Federal Register** on May 6, 2011 (76 FR 26255). During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission) only. The Commission's comments are online at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.*

Following are their comments and NMFS's responses:

Comment 1: The Commission recommends that the NMFS require L–DEO to re-estimate the proposed exclusion (EZs) and buffer zones and associated takes of marine mammals using site-specific information.

Response: NMFS is satisfied that the data supplied are sufficient for NMFS to conduct its analysis and make any determinations and therefore no further effort is needed by the applicant. While exposures of marine mammals to acoustic stimuli are difficult to estimate, NMFS is confident that the levels of take provided by L–DEO in their IHA application and EA, and authorized herein are estimated based upon the best available scientific information and estimation methodology.

The alternative method of conducting site-specific attenuation measurements in the water depths that the survey is to be conducted is neither warranted nor practical for the applicant. Site signature measurements are normally conducted commercially by shooting a test pattern over an ocean bottom instrument in shallow water. This method is neither practical nor valid for this survey which will occur in water depths as great as 6,000 m (19,685 ft). The alternative method of conducting site-specific attenuation measurements would require a second vessel, which is impractical both logistically and financially. Sound propagation varies notably less between deep water sites than it would between shallow water sites (because of the reduced significance of bottom interaction), thus decreasing the importance of deep water site-specific estimates.

Should the applicant endeavor to undertake a sound source verification study, confidence in the results is necessary in order to ensure for conservation purposes that appropriate monitoring and mitigation measures are implemented; therefore inappropriate or poorly executed efforts should be avoided and discouraged.

Source signature modeling is preferable in this instance because:

(1) The results can be reviewed and independently verified;

(2) Site-specific measurements are subject to numerous sources of error; and

(3) Reliable site-specific measurements require specialized equipment (calibrated hydrophones) and acoustic specialists to conduct the tests and interpret the results.

The 160 dB (*i.e.,* buffer) zone used to estimate exposure is appropriate and sufficient for purposes of supporting NMFS's analysis and determinations required under section 101(a)(5)(D) of the MMPA and its implementing regulations. See NMFS's responses to Comment 2 (below) for additional details.

Comment 2: The Commission recommends that NMFS require L–DEO, if the EZs and buffer zones and takes are not re-estimated, to provide a detailed justification (1) For basing the EZs and buffer zones for the proposed survey in the GOA on empirical data collected in the Gulf of Mexico (GOM) or on modeling that relies on measurements from the GOM and (2) that explains why simple ratios were used to adjust for tow depth and median values were applied to intermediate water depths rather than using empirical measurements.

Response: As stated earlier, NMFS is not requiring L–DEO to re-estimate the EZs and 160 dB zones for this survey. L–DEO provides a detailed description on how they estimated EZs, 160 dB zones, and take estimates in Appendix A of the EA, which includes information from the calibration study conducted on the *Langseth* in 2007 and 2008. Appendix A describes L–DEO's modeling process and compares the model results with empirical results of the 2007 and 2008 *Langseth* calibration experiment in shallow, intermediate, and deep water. The conclusions identified in Appendix A show that the model represents the actual produced levels, particularly within the first few kms, where the predicted EZs lie. At greater distances, local oceanographic variations begin to take effect, and the model tends to over predict sound attenuation. Further, since the modeling matches the observed measurement data, the authors have concluded that the models can continue to be used for defining EZs, including for predicting mitigation radii for various tow depths. The data results from the studies were peer reviewed and the calibration results, viewed as conservative, were used to determine the cruise-specific EZs. This information is now available in the final EA on NSF's Web site at *http://www.nsf.gov/geo/oce/envcomp/index.jsp.*

At present, the L–DEO model does not account for site-specific environmental conditions. The calibration study of the L–DEO model predicted that using site-specific information may actually provide less conservative EZs at greater distances. The ''Draft Programmatic Environmental Impact Statement for Marine Seismic Research Funded by the National Science Foundation or

Conducted by the U.S. Geological Survey'' (DPEIS) prepared pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. *et seq.*) did incorporate various site-specific environmental conditions in the modeling of the Detailed Analysis Areas. The NEPA process associated with the DPEIS is still ongoing and the USGS and NSF have not yet issued a Record of Decision. Once the NEPA process for the PEIS has concluded, NSF will look at upcoming cruises on a site-specific basis for any impacts not already considered in the DPEIS.

The IHA issued to L–DEO, under section 101(a)(5)(D) of the MMPA provides monitoring and mitigation requirements that will protect marine mammals from injury, serious injury, or mortality. L–DEO is required to comply with the IHA's requirements. These analyses are supported by extensive scientific research and data. NMFS is confident in the peer-reviewed results of the L–DEO seismic calibration studies which, although viewed as conservative, are used to determine cruise-specific EZs and which factor into exposure estimates. NMFS has determined that these reviews are the best scientific data available for review of the IHA application and to support the necessary analyses and determinations under the MMPA, Endangered Species Act (ESA; 16 U.S.C. 1531 *et seq.*) and NEPA.

Based on NMFS's analysis of the likely effects of the specified activity on marine mammals and their habitat, NMFS has determined that the EZs identified in the IHA are appropriate for the survey and that additional field measurement is not necessary at this time. While exposures of marine mammals to acoustic stimuli are difficult to estimate, NMFS is confident that the levels of take authorized herein are estimated based upon the best available scientific information and estimation methodology. The 160 dB zone used to estimate exposure are appropriate and sufficient for purposes of supporting NMFS's analysis and determinations required under section 101(a)(5)(D) of the MMPA and its implementing regulations.

Comment 3: The Commission recommends that NMFS require that L–DEO use species-specific maximum densities rather than best densities to re-estimate the anticipated number of takes.

Response: NMFS acknowledges the Commission's recommendation and is currently evaluating the recommendation to use species-specific maximum densities versus best densities to estimate the anticipated number of takes for marine mammals to determine a standard approach. However, for purposes of this IHA, NMFS is using the best (*i.e.,* average or mean) densities to estimate the number of authorized takes for L–DEO's seismic survey in the western GOA as NMFS is confident in the assumptions and calculations used to estimate density for this survey area. NMFS Endangered Species Division generally uses the best estimate when analyzing the allowable take for Endangered Species Act-listed threatened and endangered marine mammals in Biological Opinion's (BiOp) and Incidental Take Statements (ITS) incidental to marine seismic surveys for scientific research purposes. Contrary to the Commission's comment (above), NMFS has used best densities to estimate the number of incidental takes in IHAs for several seismic surveys in the past. The results of the associated monitoring reports show that the use of the best estimates is appropriate for and does not refute NMFS's determinations.

Comment 4: The Commission recommends that if NMFS is planning to allow the applicant to resume full power after nine minutes (min) under certain circumstances, specify in the authorization in all conditions under which a nine min period could be followed by a full-power resumption of the airguns.

Response: During periods of active seismic operations, there are occasions when the airguns need to be temporarily shut-down (for example due to equipment failure, maintenance, or shut-down) or a power-down is necessary (for example when a marine mammal is seen to either enter or about to enter the EZ). In these instances, should the airguns be inactive or powered-down for more than nine min, then L–DEO would follow the ramp-up procedures identified in the Mitigation section (see below) where airguns will be re-started beginning with the smallest airgun in the array and increase in steps not to exceed 6 dB per 5 min over a total duration of approximately 30 min. NMFS and NSF believe that the nine min period in question is an appropriate minimum amount of time to pass after which a ramp-up process should be followed. In these instances, should it be possible for the airguns to be re-activated without exceeding the nine min period (for example equipment is fixed or a marine mammal is visually observed to have left the EZ for the full source level), then the airguns would be reactivated to the full operating source level identified for the survey (in this case, 6,600 in^3) without need for initiating ramp-up procedures. In the event a marine mammal enters the EZ and a power-down is initiated, and the marine mammal is not visually observed to have left the EZ, then L–DEO must wait 15 min (for species with shorter dive durations—small odontocetes and pinnipeds) or 30 min (for species with longer dive durations—mysticetes and large odontocetes) after the last sighting before ramp-up procedures can be initiated, or as otherwise directed by requirements in an IHA. However, ramp-up will not occur as long as a marine mammal is detected within the EZ, which provides more time for animals to leave the EZ, and accounts for the position, swim speed, and heading of marine mammals within the EZ.

Comment 5: The Commission recommends that NMFS extend the 30 min period following a marine mammal sighting in the EZ to cover the full dive times of all species likely to be encountered.

Response: NMFS recognizes that several species of deep-diving cetaceans are capable of remaining underwater for more than 30 min (*e.g.,* sperm whales, Cuvier's beaked whales, Baird's beaked whales, and Stejneger's beaked whales); however, for the following reasons NMFS believes that 30 min is an adequate length of the monitoring period prior to the ramp-up of airguns:

(1) Because the *Langseth* is required to monitor before ramp-up of the airgun array, the time of monitoring prior to the start-up of any but the smallest array is effectively longer than 30 min (ramp-up will begin with the smallest airgun in the array and airguns will be added in sequence such that the source level of the array will increase in steps not exceeding approximately 6 dB per 5 min period over a total duration of 20 to 30 min;

(2) In many cases PSVOs are observing during times when L–DEO is not operating the seismic airguns and would observe the area prior to the 30 min observation period;

(3) The majority of the species that may be exposed do not stay underwater more than 30 min; and

(4) All else being equal and if deep-diving individuals happened to be in the area in the short time immediately prior to the pre-ramp up monitoring, if an animal's maximum underwater dive time is 45 min, then there is only a one in three chance that the last random surfacing would occur prior to the beginning of the required 30 min monitoring period and that the animal would not be seen during that 30 min period.

Finally, seismic vessels are moving continuously (because of the long, towed array and streamer) and NMFS

believes that unless the animal submerges and follows at the speed of the vessel (highly unlikely, especially when considering that a significant part of their movement is vertical [deep-diving]), the vessel will be far beyond the length of the EZ within 30 min, and therefore it will be safe to start the airguns again.

The effectiveness of monitoring is science-based and the requirement that monitoring and mitigation measures be ''practicable.'' NMFS believes that the framework for visual monitoring will: (1) Be effective at spotting almost all species for which take is requested; and (2) that imposing additional requirements, such as those suggested by the Commission, would not meaningfully increase the effectiveness of observing marine mammals approaching or entering the EZs and thus further minimize the potential for take.

Comment 6: The Commission recommends that NMFS, prior to granting the requested authorization, provide additional justification for its preliminary determination that the proposed monitoring program will be sufficient to detect, with a high level of confidence, all marine mammals within or entering the identified EZs and buffer zones, including

(1) Identifying those species that it believes can be detected with a high degree of confidence using visual monitoring only,

(2) Describing detection probability as a function of distance from the vessel,

(3) Describing changes in detection probability under various sea state and weather conditions and light levels, and

(4) Explaining how close to the vessel marine mammals must be for Protected Species Observers (PSOs) to achieve high nighttime detection rates.

Response: NMFS believes that the planned monitoring program will be sufficient to detect (using visual monitoring and passive acoustic monitoring [PAM]), with reasonable certainty, marine mammals within or entering identified EZs. This monitoring, along with the required mitigation measures, will result in the least practicable adverse impact on the affected species or stocks and will result in a negligible impact on the affected species or stocks of marine mammals. Also, NMFS expects some animals to avoid areas around the airgun array ensonified at the level of the EZ.

NMFS acknowledges that the detection probability for certain species of marine mammals varies depending on animal's size and behavior as well as sea state and weather conditions and light levels. The detectability of marine mammals likely decreases in low light (*i.e.,* darkness), higher Beaufort sea states and wind conditions, and poor weather (*e.g.,* fog and/or rain). However, at present, NMFS views the combination of visual monitoring and PAM as the most effective monitoring and mitigation techniques available for detecting marine mammals within or entering the EZ. The final monitoring and mitigation measures are the most effective feasible measures and NMFS is not aware of any additional measures which could meaningfully increase the likelihood of detecting marine mammals in and around the EZ. Further, public comment has not revealed any additional monitoring or mitigation measures that could be feasibly implemented to increase the effectiveness of detection.

NSF and L–DEO are receptive to incorporating proven technologies and techniques to enhance the current monitoring and mitigation program. Until proven technological advances are made, nighttime mitigation measures during operations include combinations of the use of PSVOs for ramp-ups, PAM, night vision devices (NVDs), and continuous shooting of a mitigation airgun. Should the airgun array be powered-down, the operation of a single airgun would continue to serve as a sound source deterrent to marine mammals. In the event of a complete shut-down of the airgun array at night for mitigation or repairs, L–DEO suspends the data collection until one-half hour after nautical twilight-dawn (when PSVO's are able to clear the EZ). L–DEO will not activate the airguns until the entire EZ is visible for at least 30 min.

In cooperation with NMFS, L–DEO will be conducting efficacy experiments of NVDs during a future *Langseth* cruise. In addition, in response to a recommendation from NMFS, L–DEO is evaluating the use of handheld forward-looking thermal imaging cameras to supplement nighttime monitoring and mitigation practices. During other low power seismic and seafloor mapping surveys, L–DEO successfully used these devices while conducting nighttime seismic operations.

Comment 7: The Commission recommends that NMFS consult with the funding agency (*i.e.,* NSF) and individual applicants (*e.g.,* L–DEO and U.S. Geological Survey [USGS]) to develop, validate, and implement a monitoring program that provides a scientifically sound, reasonably accurate assessment of the types of marine mammal taking and number of marine mammals taken.

Response: Numerous studies have reported on the abundance and distribution of marine mammals inhabiting the GOA, which overlaps with the seismic survey area, and L–DEO has incorporated this data into their analyses used to predict marine mammal take in their application. NMFS believes that L–DEO's current approach for estimating abundance in the survey area (prior to the survey) is the best available approach.

There will be significant amounts of transit time during the cruise, and PSVOs will be on watch prior to and after the seismic portions of the survey, in addition to during the survey. The collection of this visual observational data by PSVOs may contribute to baseline data on marine mammals (presence/absence) and provide some generalized support for estimated take numbers, but it is unlikely that the information gathered from this single cruise along would result in any statistically robust conclusions for any particular species because of the small number of animals typically observed.

NMFS acknowledges the Commission's recommendations and is open to further coordination with the Commission, NSF (the vessel owner), and L–DEO (the ship operator on behalf of NSF), to develop, validate, and implement a monitoring program that will provide or contribute towards a more scientifically sound and reasonably accurate assessment of the types of marine mammal taking and the number of marine mammals taken. However, the cruise's primary focus is marine geophysical research and the survey may be operationally limited due to considerations such as location, time, fuel, services, and other resources.

Comment 8: The Commission recommends that NMFS require the applicant to

(1) Report on the number of marine mammals that were detected acoustically and for which a power-down or shut-down of the airguns was initiated;

(2) Specify if such animals also were detected visually; and

(3) Compare the results from the two monitoring methods (visual versus acoustic) to help identify their respective strengths and weaknesses.

Response: The IHA requires that PSAOs on the *Langseth* do and record the following when a marine mammal is detected by the PAM:

(i) Notify the on-duty PSVO(s) immediately of a vocalizing marine mammal so a power-down or shut-down can be initiated, if required;

(ii) Enter the information regarding the vocalization into a database. The

data to be entered include an acoustic encounter identification number, whether it was linked with a visual sighting, date, time when first and last heard and whenever any additional information was recorded, position, and water depth when first detected, bearing if determinable, species or species group (*e.g.,* unidentified dolphin, sperm whale), types and nature of sounds heard (*e.g.,* clicks, continuous, sporadic, whistles, creaks, burst pulses, strength of signal, *etc.*), and any other notable information.

L–DEO reports on the number of acoustic detections made by the PAM system within the post-cruise monitoring reports as required by the IHA. The report also includes a description of any acoustic detections that were concurrent with visual sightings, which allows for a comparison of acoustic and visual detection methods for each cruise.

The post-cruise monitoring reports also include the following information: the total operational effort in daylight (hrs), the total operational effort at night (hrs), the total number of hours of visual observations conducted, the total number of sightings, and the total number of hours of acoustic detections conducted.

LGL Ltd., Environmental Research Associates (LGL), a contractor for L–DEO, has processed sighting and density data, and their publications can be viewed online at: *http://www.lgl.com/index.php?option=com_content&view=article&id=69&Itemid=162&lang=en.* Post-cruise monitoring reports are currently available on the NMFS's MMPA Incidental Take Program Web site on the NSF Web site (*http://www.nsf.gov/geo/oce/envcomp/index.jsp*) should there be interest in further analysis of this data by the public.

Comment 9: The Commission recommends that NMFS condition the authorization to require the L–DEO to monitor, document, and report observations during all ramp-up procedures.

Response: The IHA requires that PSVOs on the *Langseth* make observations for 30 min prior to ramp-up, during all ramp-ups, and during all daytime seismic operations and record the following information when a marine mammal is sighted:

(i) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction of the airguns or vessel (*e.g.,* none, avoidance, approach, paralleling, *etc.,* and including responses to ramp-up), and behavioral pace; and

(ii) Time, location, heading, speed, activity of the vessel (including number of airguns operating and whether in state of ramp-up or power-down), Beaufort wind force and sea state, visibility, and sun glare.

Comment 10: The Commission recommends that NMFS work with NSF to analyze these monitoring data to help determine the effectiveness of ramp-up procedures as a mitigation measure for geophysical surveys after the data are compiled and quality control measures have been completed.

Response: One of the primary purposes of monitoring is to result in ''increased knowledge of the species'' and the effectiveness of monitoring and mitigation measures; the effectiveness of ramp-up as a mitigation measure and marine mammal reaction to ramp-up would be useful information in this regard. NMFS has asked NSF and L–DEO to gather all data that could potentially provide information regarding the effectiveness of ramp-ups as a mitigation measure. However, considering the low numbers of marine mammal sightings and low numbers of ramp-ups, it is unlikely that the information will result in any statistically robust conclusions for this particular seismic survey. Over the long term, these requirements may provide information regarding the effectiveness of ramp-up as a mitigation measure, provided animals are detected during ramp-up.

Comment 11: The Commission recommends that NMFS condition the IHA to require L–DEO to (1) report immediately all injured or dead marine mammals to NMFS and (2) suspend the geophysical survey if a marine mammal is seriously injured or killed and the injury or death could have been caused by the survey (*e.g.,* a fresh dead carcass); if additional measures are not likely to reduce the risk of additional serious injuries or deaths to a very low level, require L–DEO to obtain the necessary authorization for such takings under section 101(a)(5)(A) of the MMPA before allowing it to continue this survey or initiate additional surveys.

Response: As stipulated in the IHA, in the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA, such as an injury (Level A harassment), serious injury or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), L–DEO will immediately cease the specified activities and immediately report the incident to the Chief of the Permits, Conservation, and Education Division, Office of Protected Resources, NMFS at 301–427–8401 and/or by e-mail to *Michael.Payne@noaa.gov* and *Howard.Goldstein@noaa.gov,* and the Alaska Regional Stranding Coordinators (*Aleria.Jensen@noaa.gov* and *Barbara.Mahoney@noaa.gov*). The incident report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with L–DEO to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. L–DEO may not resume their activities until notified by NMFS via letter or e-mail, or telephone.

In the event that L–DEO discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), L–DEO will immediately report the incident to the Chief of the Permits, Conservation, and Education Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by e-mail to *Michael.Payne@noaa.gov* and *Howard.Goldstein@noaa.gov,* and the NMFS Alaska Stranding Hotline (1–877–925–7773) and/or by e-mail to the Alaska Regional Stranding Coordinators (*Aleria.Jensen@noaa.gov* and *Barbara.Mahoney@noaa.gov*). The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with L–DEO to determine whether modifications in the activities are appropriate.

In the event that L–DEO discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related

to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), L–DEO will report the incident to the Chief of the Permits, Conservation, and Education Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by e-mail to *Michael.Payne@noaa.gov* and *Howard.Goldstein@noaa.gov,* and the NMFS Alaska Stranding Hotline (1–877–925–7773), and/or by e-mail to the Alaska Regional Stranding Coordinators (*Aleria.Jensen@noaa.gov* and *Barbara.Mahoney@noaa.gov*), within 24 hours of discovery. L–DEO will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Description of the Marine Mammals in the Area of the Specified Activity

Twenty-five marine mammal species (18 cetacean, 6 pinniped, and the sea otter) are known to or could occur in the GOA study area. Several of these species are listed as endangered under the U.S. Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*), including the North Pacific right (*Eubalaena japonica*), humpback (*Megaptera novaeangliae*), sei (*Balaenoptera borealis*), fin (*Balaenoptera physalus*), blue (*Balaenoptera musculus*), and sperm (*Physeter macrocephalus*) whales, as well as the Cook Inlet distinct population segment (DPS) of beluga whales (*Dephinapterus leucas*) and the western stock of Steller sea lions (*Eumetopias jubatus*). The eastern stock of Steller sea lions is listed as threatened, as is the southwest Alaska DPS of the sea otter (*Enhydra lutris*).

The marine mammals that occur in the survey area belong to four taxonomic groups: odontocetes (toothed cetaceans, such as dolphins), mysticetes (baleen whales), pinnipeds (seals, sea lions, and walrus), and fissipeds (sea otter). Cetaceans and pinnipeds are the subject of the IHA application to NMFS. Walrus sightings are rare in the GOA. Sea otters generally inhabit nearshore areas inside the 40 m (131.2 ft) depth contour (Riedman and Estes, 1990) and could be encountered in coastal waters, but likely would not be encountered in the deep, offshore waters of the study area. The sea otter and Pacific walrus are two marine mammal species mentioned in this document that are managed by the U.S. Fish and Wildlife Service (USFWS) and are not considered further in this analysis; all others are managed by NMFS. The Cook Inlet DPS of beluga whales, California sea lions (*Zalophus c. californianus*), northern fur seals (*Callorhinus ursinus*), and northern elephant seals (*Mirounga angustirostris*) are not likely to be found in the waters of the survey area.

Table 1 presents information on the abundance, distribution, population status, conservation status, and density of the marine mammals that may occur in the survey area during June to August, 2011.

TABLE 1—THE HABITAT, REGIONAL ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE SEISMIC SURVEY AREA IN THE WESTERN GOA

[See text and tables 2 to 4 in L–DEO's application and EA for further details.]

Species	Occurrence in/near survey area	Habitat	Abundance (Alaska)	Regional abundance	ESA [1]	MMPA [2]	Density (#/1,000 km²) shallow intermediate deep	
							Best [3]	Max [4]
Mysticetes:								
North Pacific right whale (*Eubalaena japonica*).	Rare	Coastal, shelf	28–31 [5]	Low hundreds [6]	EN	D	0 0 0	0 0 0
Gray whale (*Eschrichtius robustus*).	Uncommon	Coastal	N.A	19,126 [7]	DL EN (Western pop.).	NC D (Western pop.).	0 0 0	0 0 0
Humpback whale (*Megaptera novaeangliae*).	Common	Coastal, banks	3,000 to 5,000 [8]	20,800 [9]	EN	D	40.90 12.69 2.61	66.0 66.0 6.53
Minke whale (*Balaenoptera acutorostrata*).	Uncommon	Coastal, shelf	1,233 [10]	25,000 [11]	NL	NC	1.40 0.31 0	6.0 6.0 0
Sei whale (*Balaenoptera borealis).*	Rare	Pelagic	N.A	7,260 to 12,620 [12]	EN	D	0 0 0	0 0 0
Fin whale (*Balaenoptera physalus*).	Common	Pelagic	1,652 [10]	13,620 to 18,680.[13]	EN	D	10.62 12.61 2.90	40.0 40.0 10.38
Blue whale (*Balaneoptera musculus*).	Rare	Pelagic, shelf, coastal.	N.A	3,500 [14]	EN	D	0 0 0	0 0 0
Odontocetes:								
Sperm whale (*Physeter macrocephalus*).	Uncommon	Pelagic	159 [15]	24,000 [16]	EN	D	0 0.11 0.38	0 0.26 1.69
Cuvier's beaked whale (*Ziphius cavirostris*).	Common	Pelagic	N.A	20,000 [17]	NL	NC	0 1.12 0	0 1.81 0
Baird's beaked whale (*Berardius bairdii*).	Rare	Pelagic	N.A	6,000 [18]	NL	NC	0 0.37 0	0 0.60 0
Stejneger's beaked whale (*Mesoplodon stejnegeri*).	Common	Likely pelagic	N.A	N.A	NL	NC	0 0 0	0 0 0
Beluga whale (*Delphinapterus leucas*).	Rare	Coastal and ice edges.	340 [19]	N.A	EN [34] NL	D [34] NC	0 0 0	0 0 0

TABLE 1—THE HABITAT, REGIONAL ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE SEISMIC SURVEY AREA IN THE WESTERN GOA—Continued

[See text and tables 2 to 4 in L–DEO's application and EA for further details.]

Species	Occurrence in/near survey area	Habitat	Abundance (Alaska)	Regional abundance	ESA [1]	MMPA [2]	Density (#/1,000 km²) shallow intermediate deep	
							Best [3]	Max [4]
Pacific white-sided dolphin (*Lagenorhynchus obliquidens*).	Common	Pelagic, shelf, coastal.	26,880 [20]	988,000 [21]	NL	NC	2.08 3.96 0	4.76 14.36 0
Risso's dolphin (*Grampus griseus*).	Rare	Pelagic, shelf, coastal.	N.A	838,000 [22]	NL	NC	0 0 0	0 0 0
Killer whale (*Orcinus orca*)	Common	Pelagic, shelf, coastal.	2,636 [23]	8,500 [24]	NL [35]	NC	7.26 7.34 3.79	41.80 41.80 13.53
Short-finned pilot whale (*Globicephala macrorhynchus*).	Rare	Pelagic, shelf, coastal.	N.A	53,000 [22]	NL	NC	0 0 0	0 0 0
Harbor porpoise (*Phocoena phocoena*).	Uncommon	Coastal	11,146 [25] ..... 31,046 [26]	168,387 [27]	NL	NC	3.67 2.87 0	46.71 14.43 0
Dall's porpoise (*Phocoenoides dalli*).	Common	Pelagic, shelf	83,400 [20]	1,186,000 [28]	NL	NC	13.57 31.56 25.69	21.77 37.23 62.50
Pinnipeds:								
Northern fur seal (*Callorhinus ursinus*).	Uncommon	Pelagic, breeds coastally.	653,171 [7]	1.1 million [29]	NL	D	0 0 0	0 0 0
Steller sea lion (*Eumetopias jubatus*).	Common	Coastal, offshore.	58,334–72,223. [30] 42,366 [31]	N.A	T [36] ..... EN [36]	D	3.29 2.91 9.80	3.99 4.20 14.70
California sea lion (*Zalophus c. californianus*).	Uncommon	Coastal	N.A	238,000 [33]	NL	NC	N.A	N.A
Harbor seal (*Phoca vitulina richardsi*).	Uncommon	Coastal	45,975 [26]	180,017 [32]	NL	NC	1.65 14.03 0	2.0 20.28 0
Northern elephant seal (*Mirounga angustirostris*).	Uncommon	Coastal, offshore.	N.A	124,000 [33]	NL	NC	0 0 0	0 0 0

N.A. Not available or not assessed.
[1] U.S. Endangered Species Act: EN = Endangered, T = Threatened, NL = Not listed.
[2] U.S. Marine Mammal Protection Act: D = Depleted, NC = Not Classified.
[3] Best density estimate as listed in Table 3 of the application.
[4] Maximum density estimate as listed in Table 3 of the application.
[5] Bering Sea and Aleutian Islands (Wade *et al.,* 2010).
[6] Western population (Brownell *et al.,* 2001).
[7] Eastern North Pacific (Allen and Angliss, 2010).
[8] GOA (Calambokidis *et al.,* 2008).
[9] North Pacific Ocean (Barlow *et al.,* 2009).
[10] Western GOA and eastern Aleutians (Zerbini *et al.,* 2006).
[11] Northwest Pacific (Buckland *et al.,* 1992; IWC, 2009).
[12] North Pacific (Tillman, 1977).
[13] North Pacific (Ohsumi and Wada, 1974).
[14] Eastern North Pacific (NMFS, 1998).
[15] Western GOA and eastern Aleutians (Zerbini *et al.,* 2004).
[16] Eastern temperate North Pacific (Whitehead, 2002b).
[17] Eastern Tropical Pacific (Wade and Gerrodette, 1993).
[18] Western North Pacific (Reeves and Leatherwood, 1994; Kasuya, 2002).
[19] Cook Inlet stock (Shelden *et al.,* 2010).
[20] Alaska stock (Allen and Angliss, 2010).
[21] North Pacific Ocean (Miyashita, 1993b).
[22] Western North Pacific Ocean (Miyashita, 1993a).
[23] Minimum abundance in Alaska, includes 2,084 resident and 552 GOA, Bering Sea, Aleutian Islands transients (Allen and Angliss, 2010).
[24] Eastern Tropical Pacific (Ford, 2002).
[25] Southeast Alaska stock (Allen and Angliss, 2010).
[26] GOA stock (Allen and Angliss, 2010).
[27] Eastern North Pacific (totals from Carretta *et al.,* 2009 and Allen and Angliss, 2010).
[28] North Pacific Ocean and Bering Sea (Houck and Jefferson, 1999).
[29] North Pacific (Gelatt and Lowry, 2008).
[30] Eastern U.S. Stock (Allen and Angliss, 2010).
[31] Western U.S. Stock (Allen and Angliss, 2010).
[32] Alaska statewide (Allen and Angliss, 2010).
[33] Caretta *et al.,* 2009.
[34] Cook Inlet DPS is listed as Endangered and Depleted; other stocks are not listed.
[35] Stocks in Alaska are not listed, but the southern resident DPS is listed as endangered. AT1 transient in Alaska is considered depleted and a strategic stock (NOAA, 2004a).
[36] Eastern stock is listed as threatened, and the western stock is listed as endangered.

Refer to Section III and IV of L–DEO's application for detailed information regarding the abundance and distribution, population status, and life history and behavior of these species and their occurrence in the project area. The application also presents how L–DEO calculated the estimated densities for the marine mammals in the survey

area. NMFS has reviewed these data and determined them to be the best available scientific information for the purposes of the IHA.

Potential Effects on Marine Mammals

Acoustic stimuli generated by the operation of the airguns, which introduce sound into the marine environment, may have the potential to cause Level B harassment of marine mammals in the survey area. The effects of sounds from airgun operations might include one or more of the following: Tolerance, masking of natural sounds, behavioral disturbance, temporary or permanent hearing impairment, or non-auditory physical or physiological effects (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007).

Permanent hearing impairment, in the unlikely event that it occurred, would constitute injury, but temporary threshold shift (TTS) is not an injury (Southall *et al.,* 2007). Although the possibility cannot be entirely excluded, it is unlikely that the project would result in any cases of temporary or permanent hearing impairment, or any significant non-auditory physical or physiological effects. Based on the available data and studies described here, some behavioral disturbance is expected, but NMFS expects the disturbance to be localized and short-term.

The notice of the proposed IHA (76 FR 26255, May 6, 2011) included a discussion of the effects of sounds from airguns on mysticetes, odontocetes, and pinnipeds including tolerance, masking, behavioral disturbance, hearing impairment, and other non-auditory physical effects. NMFS refers the reader to L–DEO's application, and EA for additional information on the behavioral reactions (or lack thereof) by all types of marine mammals to seismic vessels.

Anticipated Effects on Marine Mammal Habitat, Fish, Fisheries, and Invertebrates

NMFS included a detailed discussion of the potential effects of this action on marine mammal habitat, including physiological and behavioral effects on marine fish, fisheries, and invertebrates in the notice of the proposed IHA (76 FR 26255, May 6, 2011). While NMFS anticipates that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible which NMFS considered in further detail in the notice of the proposed IHA (76 FR 25255, May 6, 2011) as behavioral modification. The main impact associated with the activity would be temporarily elevated noise levels and the associated direct effects on marine mammals.

Recent work by Andre *et al.* (2011) purports to present the first morphological and ultrastructural evidence of massive acoustic trauma (*i.e.,* permanent and substantial alterations of statocyst sensory hair cells) in four cephalopod species subjected to low-frequency sound. The cephalopods, primarily cuttlefish, were exposed to continuous 40 to 400 Hz sinusoidal wave sweeps (100% duty cycle and 1 s sweep period) for two hours while captive in relatively small tanks (one 2,000 liter [L, 2 m^3] and one 200 L [0.2 m^3] tank). The received SPL was reported as 157±5 dB re 1 μPa, with peak levels at 175 dB re 1 μPa. As in the McCauley *et al.* (2003) paper on sensory hair cell damage in pink snapper as a result of exposure to seismic sound, the cephalopods were subjected to higher sound levels than they would be under natural conditions, and they were unable to swim away from the sound source.

Mitigation

In order to issue an ITA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses.

L–DEO has based the mitigation measures described herein, to be implemented for the seismic survey, on the following:

(1) Protocols used during previous L–DEO seismic research cruises as approved by NMFS;

(2) Previous IHA applications and IHAs approved and authorized by NMFS; and

(3) Recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), and Weir and Dolman (2007).

To reduce the potential for disturbance from acoustic stimuli associated with the activities, L–DEO and/or its designees will implement the following mitigation measures for marine mammals:

(1) EZs;

(2) Power-down procedures;

(3) Shut-down procedures;

(4) Ramp-up procedures; and

(5) Special procedures for situations and species of concern.

Planning Phase—The PIs worked with L–DEO and NSF to identify potential time periods to carry out the survey taking into consideration key factors such as environmental conditions (*i.e.,* the seasonal presence of marine mammals, sea turtles, and sea birds), weather conditions, and equipment. The survey was previously scheduled for September, 2010; however after further consideration, it was viewed as not a viable operational option because of the strong possibility of not being able to carry out the science mission under potential weather conditions in the region at that time of year. Also, the late June to early August cruise avoids the peak in humpback abundance (late August to early September) and the peak of the marine mammal harvest (generally September to December, with a reduction in hunting effort in summer).

Reducing the size of the energy source was also considered, but it was decided that the 6,600 in^3, 36 airgun array is necessary to penetrate through the seafloor to accurately delineate the geologic features and to achieve the primary scientific objectives of the program. A large source that is rich in relatively low-frequency seismic energy is required to penetrate to depths greater than 20 to 30 km (10.8 to 16.2 nmi) and image the deep fault that causes earthquakes off Alaska. By towing this source configuration at 12 m below the sea surface, the lower frequencies are enhanced. If a smaller source were used, it would inhibit the deep imaging of the fault zone, thus preventing the scientists' ability to carry out their research and meet their objectives. Similarly, the combination of OBSs and hydrophone streamers are needed to record seismic returns from deep in the earth and determine the depth and geometry of the fault zone, thus meeting the scientific objectives.

EZs—Received sound levels have been determined by corrected empirical measurements for the 36 airgun array, and a L–DEO model was used to predict the EZs for the single 1900LL 40 in^3 airgun, which will be used during power-downs. Results were recently reported for propagation measurements of pulses from the 36 airgun array in two water depths (approximately 1,600 m and 50 m [5,249 to 164 ft]) in the GOM in 2007 to 2008 (Tolstoy *et al.,* 2009). It would be prudent to use the corrected empirical values that resulted to determine EZs for the airgun array. Results of the propagation measurements (Tolstoy *et al.,* 2009) showed that radii around the airguns for various received levels varied with water depth. As results for

measurements in intermediate depth water are still under analysis, values halfway between the deep and shallow-water measurements were used. In addition, propagation varies with array tow depth. The depth of the array was different in the GOM calibration study (6 m [19.7 ft]) than in the survey in the GOA (12 m); thus, correction factors have been applied to the distances reported by Tolstoy *et al.* (2009). The correction factors used were the ratios of the 160, 180, and 190 dB distances from the modeled results for the 6,600 in^3 airgun array towed at 6 m versus 12 m.

Measurements were not reported for a single airgun, so model results will be used. The tow depth has minimal effect on the maximum near-field output and the shape of the frequency spectrum for the single airgun; thus, the predicted EZ are essentially the same at different tow depths. The L–DEO model does not allow for bottom interactions, and thus is most directly applicable to deep water and to relatively short ranges; correction factors were used to estimate EZs in shallow and intermediate depth water as was done for previous L–DEO surveys from the *Langseth.* A detailed description of the modeling effort is predicted in Appendix A of the EA.

Based on the corrected propagation measurements (airgun array) and modeling (single airgun), the distances from the source where sound levels are predicted to be 190, 180, and 160 dB re 1 μPa (rms) were determined (see Table 2 below). The 180 and 190 dB radii are shut-down criteria applicable to cetaceans and pinnipeds, respectively, as specified by NMFS (2000); these levels were used to establish the EZs. If the PSVO detects marine mammal(s) within or about to enter the appropriate EZ, the airguns will be powered-down (or shut-down, if necessary) immediately.

Table 2 summarizes the predicted distances at which sound levels (160, 180, and 190 dB [rms]) are expected to be received from the 36 airgun array and a single airgun operating in deep water depths.

TABLE 2—MEASURED (ARRAY) OR PREDICTED (SINGLE AIRGUN) DISTANCES TO WHICH SOUND LEVELS ≥ 190, 180, AND 160 DB RE: 1 μPa (RMS) COULD BE RECEIVED IN VARIOUS WATER DEPTH CATEGORIES DURING THE SURVEY IN THE WESTERN GOA, JUNE TO AUGUST, 2011

Source and volume	Tow depth (m)	Water depth (m)	Predicted RMS radii distances (m)		
			190 dB	180 dB	160 dB
Single Bolt airgun (40 in^3).	6 to 12	Deep (>1,000)	12	40	385
		Intermediate (100 to 1,000)	18	60	578
		Shallow (<100)	150	296	1,050
4 Strings 36 airguns (6,600 in^3).	12	Deep (>1,000)	460	1,100	4,400
		Intermediate (100 to 1,000)	615	1,810	13,935
		Shallow (<100)	770	2,520	23,470

Power-down Procedures—A power-down involves decreasing the number of airguns in use to one airgun, such that the radius of the 180 dB (or 190 dB) zone is decreased to the extent that marine mammals are no longer in or about to enter the EZ. A power-down of the airgun array can also occur when the vessel is moving from one seismic line to another. During a power-down for mitigation, L–DEO will operate one airgun. The continued operation of one airgun is intended to alert marine mammals to the presence of the seismic vessel in the area. In contrast, a shut-down occurs when the *Langseth* suspends all airgun activity.

If the PSVO detects a marine mammal outside the EZ, but it is likely to enter the EZ, L–DEO will power-down the airguns before the animal is within the EZ. Likewise, if a mammal is already within the EZ, when first detected L–DEO will power-down the airguns immediately. During a power-down of the airgun array, L–DEO will also operate the 40 in^3 airgun. If a marine mammal is detected within or near the smaller EZ around that single airgun (Table 1), L–DEO will shut-down the airgun (see next section).

Following a power-down, L–DEO will not resume airgun activity until the marine mammal has cleared the EZ. L–DEO will consider the animal to have cleared the EZ if:

- A PSVO has visually observed the animal leave the EZ, or
- A PSVO has not sighted the animal within the EZ for 15 min for species with shorter dive durations (*i.e.,* small odontocetes or pinnipeds), or 30 min for species with longer dive durations (*i.e.,* mysticetes and large odontocetes, including sperm, killer, and beaked whales).

During airgun operations following a power-down (or shut-down) whose duration has exceeded the time limits specified previously, L–DEO will ramp-up the airgun array gradually (see Shut-down and Ramp-up Procedures).

Shut-down Procedures—L–DEO will shut down the operating airgun(s) if a marine mammal is seen within or approaching the EZ for the single airgun. L–DEO will implement a shut-down:

(1) If an animal enters the EZ of the single airgun after L–DEO has initiated a power-down; or

(2) If an animal is initially seen within the EZ of the single airgun when more than one airgun (typically the full airgun array) is operating.

L–DEO will not resume airgun activity until the marine mammal has cleared the EZ, or until the PSVO is confident that the animal has left the vicinity of the vessel. Criteria for judging that the animal has cleared the EZ will be as described in the preceding section.

Ramp-up Procedures—L–DEO will follow a ramp-up procedure when the airgun array begins operating after a specified period without airgun operations or when a power-down has exceeded that period. L–DEO proposes that, for the present cruise, this period would be approximately nine min. This period is based on the 180 dB radius (1,100 m) for the 36 airgun array towed at a depth of 12 m in relation to the minimum planned speed of the *Langseth* while shooting (7.4 km/hr). L–DEO has used similar periods (approximately 8 to 10 min) during previous surveys.

Ramp-up will begin with the smallest airgun in the array (40 in^3). Airguns will be added in a sequence such that the source level of the array will increase in steps not exceeding approximately six dB per five min period over a total

duration of approximately 35 min. During ramp-up, the Protected Species Observers (PSOs) will monitor the EZ, and if marine mammals are sighted, L–DEO will implement a power-down or shut-down as though the full airgun array were operational.

If the complete EZ has not been visible for at least 30 min prior to the start of operations in either daylight or nighttime, L–DEO will not commence the ramp-up unless at least one airgun (40 in^3 or similar) has been operating during the interruption of seismic survey operations. Given these provisions, it is likely that the airgun array will not be ramped-up from a complete shut-down at night or in thick fog, because the outer part of the EZ for that array will not be visible during those conditions. If one airgun has operated during a power-down period, ramp-up to full power will be permissible at night or in poor visibility, on the assumption that marine mammals will be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away. L–DEO will not initiate a ramp-up of the airguns if a marine mammal is sighted within or near the applicable EZs during the day or close to the vessel at night.

Special Procedures for Situations and Species of Concern—L–DEO will implement special mitigation procedures as follows:

- The airguns will be shut down immediately if ESA-listed species for which no takes are being requested (*i.e.,* North Pacific right, sei, blue, and beluga whales) are sighted at any distance from the vessel. Ramp-up will only begin if the whale has not been seen for 30 min.
- Concentrations of humpback, fin, and/or killer whales will be avoided if possible, and the array will be powered down if necessary. For purposes of this survey, a concentration or group of whales will consist of three or more individuals visually sighted that do not appear to be traveling (*e.g.,* feeding, socializing, *etc.*).
- Seismic operations in Chignik Bay will be conducted from nearshore to offshore waters.
- Avoidance of areas where subsistence fishers are fishing, if requested (or viewed as necessary).

NMFS has carefully evaluated the applicant's mitigation measures and has considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. NMFS's evaluation of potential measures included consideration of the following factors in relation to one another:

(1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;

(2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

(3) The practicability of the measure for applicant implementation.

Based on NMFS's evaluation of the applicant's measures, as well as other measures considered by NMFS or recommended by the public, NMFS has determined that the mitigation measures provide the means of effecting the least practicable adverse impacts on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for IHAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area.

Monitoring

L–DEO will sponsor marine mammal monitoring during the present project, in order to implement the mitigation measures that require real-time monitoring, and to satisfy the monitoring requirements of the IHA. L–DEO's Monitoring Plan is described below this section. The monitoring work described here has been planned as a self-contained project independent of any other related monitoring projects that may be occurring simultaneously in the same regions. L–DEO is prepared to discuss coordination of its monitoring program with any related work that might be done by other groups insofar as this is practical and desirable.

Vessel-Based Visual Monitoring

L–DEO's PSVOs will be based aboard the seismic source vessel and will watch for marine mammals near the vessel during daytime airgun operations and during any ramp-ups at night. PSVOs will also watch for marine mammals near the seismic vessel for at least 30 min prior to the start of airgun operations after an extended shut-down (*i.e.,* greater than approximately 9 min for this cruise). When feasible, PSVOs will conduct observations during daytime periods when the seismic system is not operating for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods. Based on PSVO observations, the airguns will be powered down or shut down when marine mammals are observed within or about to enter a designated EZ. The EZ is a region in which a possibility exists of adverse effects on animal hearing or other physical effects.

During seismic operations in the western GOA, at least four PSOs (PSVO and/or PSAO) will be based aboard the *Langseth.* L–DEO will appoint the PSOs with NMFS's concurrence. Observations will take place during ongoing daytime operations and nighttime ramp-ups of the airguns. During the majority of seismic operations, two PSVOs will be on duty from the observation tower to monitor marine mammals near the seismic vessel. Use of two simultaneous PSVOs will increase the effectiveness of detecting animals near the source vessel. However, during meal times and bathroom breaks, it is sometimes difficult to have two PSVOs on effort, but at least one PSVO will be on duty. PSVO(s) will be on duty in shifts of duration no longer than 4 hrs.

Two PSVOs will also be on visual watch during all nighttime ramp-ups of the seismic airguns. A third PSAO will monitor the PAM equipment 24 hours a day to detect vocalizing marine mammals present in the action area. In summary, a typical daytime cruise would have scheduled two PSVOs on duty from the observation tower, and a third PSAO on PAM. Other crew will also be instructed to assist in detecting marine mammals and implementing mitigation requirements (if practical). Other crew will also be instructed to assist in detecting marine mammals and implementing mitigation requirements. Before the start of the seismic survey, the crew will be given additional instruction on how to do so.

The *Langseth* is a suitable platform for marine mammal observations. When stationed on the observation platform, the eye level will be approximately 21.5 m (70.5 ft) above sea level, and the PSVO will have a good view around the entire vessel. During daytime, the PSVOs will scan the area around the vessel systematically with reticle binoculars (*e.g.,* 7 x 50 Fujinon), Big-eye binoculars (25 x 150), and with the naked eye. During darkness, night vision devices (NVDs) will be available

(ITT F500 Series Generation 3 binocular-image intensifier or equivalent), when required. Laser range-finding binoculars (Leica LRF 1200 laser rangefinder or equivalent) will be available to assist with distance estimation. Those are useful in training observers to estimate distances visually, but are generally not useful in measuring distances to animals directly; that is done primarily with the reticles in the binoculars.

When marine mammals are detected within or about to enter the designated EZ, the airguns will immediately be powered-down or shut-down if necessary. The PSVO(s) will continue to maintain watch to determine when the animal(s) are outside the EZ by visual confirmation. Airgun operations will not resume until the animal is confirmed to have left the EZ, or if not observed after 15 min for species with shorter dive durations (small odontocetes and pinnipeds) or 30 min for species with longer dive durations (mysticetes and large odontocetes, including sperm, killer, and beaked whales).

Passive Acoustic Monitoring (PAM)

PAM will complement the visual monitoring program, when practicable. Visual monitoring typically is not effective during periods of poor visibility or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Acoustical monitoring can be used in addition to visual observations to improve detection, identification, and localization of cetaceans. The acoustic monitoring will serve to alert visual observers (if on duty) when vocalizing cetaceans are detected. It is only useful when marine mammals call, but it can be effective either by day or by night, and does not depend on good visibility. It will be monitored in real time so that the PSVOs can be advised when cetaceans are detected.

The PAM system consists of hardware (*i.e.,* hydrophones) and software. The ''wet end'' of the system consists of a towed hydrophone array that is connected to the vessel by a tow cable. The tow cable is 250 m (820.2 ft) long, and the hydrophones are fitted in the last 10 m (32.8 ft) of cable. A depth gauge is attached to the free end of the cable, and the cable is typically towed at depths less than 20 m (65.6 ft). The array will be deployed from a winch located on the back deck. A deck cable will connect from the winch to the main computer laboratory where the acoustic station, signal conditioning, and processing system will be located. The acoustic signals received by the hydrophones are amplified, digitized, and then processed by the Pamguard software. The system can detect marine mammal vocalizations at frequencies up to 250 kHz.

One Protected Species Acoustic Observer (PSAO, an expert bioacoustician in addition to the four PSVOs), with primary responsibility for PAM, will be onboard the *Langseth.* The towed hydrophones will ideally be monitored by the PSAO 24 hours per day while at the seismic survey area during airgun operations, and during most periods when the *Langseth* is under way while the airguns are not operating. However, PAM may not be possible if damage occurs to the array or back-up systems during operations. The primary PAM streamer on the *Langseth* is a digital hydrophone streamer. Should the digital streamer fail, back-up systems should include an analog spare streamer and a hull-mounted hydrophone. One PSAO will monitor the acoustic detection system by listening to the signals from two channels via headphones and/or speakers and watching the real-time spectrographic display for frequency ranges produced by cetaceans. The PSAO monitoring the acoustical data will be on shift for one to six hours at a time. All PSOs are expected to rotate through the PAM position, although the expert PSAO will be on PAM duty more frequently.

When a vocalization is detected while visual observations are in progress, the PSAO will contact the PSVO immediately, to alert him/her to the presence of cetaceans (if they have not already been seen), and to allow a power-down or shut-down to be initiated, if required. When bearings (primary and mirror-image) to calling cetacean(s) are determined, the bearings will be related to the PSVO(s) to help him/her sight the calling animal. The information regarding the call will be entered into a database. Data entry will include an acoustic encounter identification number, whether it was linked with a visual sighting, date, time when first and last heard and whenever any additional information was recorded, position and water depth when first detected, bearing if determinable, species or species group (*e.g.,* unidentified dolphin, sperm whale), types and nature of sounds heard (*e.g.,* clicks, continuous, sporadic, whistles, creaks, burst pulses, strength of signal, *etc.*), and any other notable information. The acoustic detection can also be recorded for further analysis.

PSVO Data and Documentation

PSVOs will record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data will be used to estimate numbers of animals potentially ''taken'' by harassment (as defined in the MMPA). They will also provide information needed to order a power-down or shut-down of the airguns when a marine mammal is within or near the EZ. Observations will also be made during daytime periods when the *Langseth* is under way without seismic operations. In addition to transits to, from, and through the study area, there will also be opportunities to collect baseline biological data during the deployment and recovery of OBSs.

When a sighting is made, the following information about the sighting will be recorded:

1. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (*e.g.,* none, avoidance, approach, paralleling, *etc.*), and behavioral pace.

2. Time, location, heading, speed, activity of the vessel, sea state, visibility, and sun glare.

The data listed under (2) will also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

All observations and power-downs or shut-downs will be recorded in a standardized format. Data will be entered into an electronic database. The accuracy of the data entry will be verified by computerized data validity checks as the data are entered and by subsequent manual checking of the database. These procedures will allow initial summaries of data to be prepared during and shortly after the field program, and will facilitate transfer of the data to statistical, graphical, and other programs for further processing and archiving.

Results from the vessel-based observations will provide:

1. The basis for real-time mitigation (airgun power-down or shut-down).

2. Information needed to estimate the number of marine mammals potentially taken by harassment, which must be reported to NMFS.

3. Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted.

4. Information to compare the distance and distribution of marine mammals relative to the source vessel at times with and without seismic activity.

5. Data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

L–DEO will submit a report to NMFS and NSF within 90 days after the end of the cruise. The report will describe the operations that were conducted and sightings of marine mammals near the operations. The report will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report will summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities). The report will also include estimates of the number and nature of exposures that could result in ''takes'' of marine mammals by harassment or in other ways.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this IHA, such as an injury (Level A harassment), serious injury or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), L–DEO will immediately cease the specified activities and immediately report the incident to the Chief of the Permits, Conservation, and Education Division, Office of Protected Resources, NMFS at 301–427–8401 and/or by e-mail to *Michael.Payne@noaa.gov* and *Howard.Goldstein@noaa.gov,* and the Alaska Regional Stranding Coordinators *(Aleria.Jensen@noaa.gov* and *Barbara.Mahoney@noaa.gov).* The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with L–DEO to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. L–DEO may not resume their activities until notified by NMFS via letter or e-mail, or telephone.

In the event that L–DEO discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), L–DEO will immediately report the incident to the Chief of the Permits, Conservation, and Education Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by e-mail to *Michael.Payne@noaa.gov* and *Howard.Goldstein@noaa.gov,* and the NMFS Alaska Stranding Hotline (1–877–925–7773) and/or by e-mail to the Alaska Regional Stranding Coordinators *(Aleria.Jensen@noaa.gov* and *Barbara.Mahoney@noaa.gov).* The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with L–DEO to determine whether modifications in the activities are appropriate.

In the event that L–DEO discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), L–DEO will report the incident to the Chief of the Permits, Conservation, and Education Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by e-mail to *Michael.Payne@noaa.gov* and *Howard.Goldstein@noaa.gov,* and the NMFS Alaska Stranding Hotline (1–877–925–7773), and/or by e-mail to the Alaska Regional Stranding Coordinators *(Aleria.Jensen@noaa.gov* and *Barbara.Mahoney@noaa.gov*), within 24 hours of discovery. L–DEO will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Only take by Level B harassment is anticipated and authorized as a result of the marine seismic survey in the western GOA. Acoustic stimuli (*i.e.,* increased underwater sound) generated during the operation of the seismic airgun array may have the potential to cause marine mammals in the survey area to be exposed to sounds at or greater than 160 dB or cause temporary, short-term changes in behavior. There is no evidence that the planned activities could result in injury, serious injury, or mortality within the specified geographic area for which NMFS has issued the IHA. Take by injury, serious injury, or mortality is thus neither anticipated nor authorized. NMFS has determined that the required mitigation and monitoring measures will minimize any potential risk for injury, serious injury, or mortality.

The following sections describe L–DEO's methods to estimate take by incidental harassment and present the applicant's estimates of the numbers of marine mammals that could be affected during the seismic program. The estimates are based on a consideration of the number of marine mammals that could be disturbed appreciably by operations with the 36 airgun array to be used during approximately 2,553 km of survey lines in the western GOA.

L–DEO assumes that, during simultaneous operations of the airgun array and the other sources, any marine mammals close enough to be affected by the MBES and SBP would already be affected by the airguns. However, whether or not the airguns are operating simultaneously with the other sources, marine mammals are expected to exhibit no more than short-term and inconsequential responses to the MBES and SBP given their characteristics (*e.g.,* narrow, downward-directed beam) and other considerations described previously. Such reactions are not considered to constitute ''taking'' (NMFS, 2001). Therefore, L–DEO provides no additional allowance for animals that could be affected by sound sources other than airguns.

There are several sources of systematic data on the numbers and distributions of marine mammals in the coastal and nearshore areas of the GOA, but there are fewer data for offshore areas. Zerbini *et al.* (2003, 2006, 2007) conducted vessel-based surveys in the northern and western GOA from the Kenai Peninsula to the central Aleutian Islands during July to August 2001 to

2003. These surveys included all of the coastal and nearshore areas of the current study area. Killer whales were the principal target of the surveys, but the abundance and distribution of fin, humpback, and minke whales were also reported. Waite (2003) conducted vessel-based surveys in the northern and western GOA from Prince William Sound to approximately 160° West off the Alaska Peninsula during June 26 to July 15, 2003 (Waite, 2003); cetaceans recorded included small odontocetes, beaked whales, and mysticetes. The eastern part of the surveys by Zerbini *et al.* were confined to waters less than 1,000 m deep with most effort in depths less than 100 m, and all of Waite's survey was confined to waters less than 1,000 m deep with most effort in depths 100 to 1,000 m.

Dahlheim *et al.* (2000) conducted aerial surveys of the nearshore waters from Bristol Bay to Dixon Entrance and reported densities for harbor porpoises; the southern Alaska Peninsula and Kodiak Island were surveyed during July 6 to August 9, 1992. Dahlheim and Towell (1994) conducted vessel-based surveys of Pacific white-sided dolphins in the inland waterways of Southeast Alaska during April to May, June or July, and September to early October of 1991 to 1993. In a report on a seismic cruise in southeast Alaska from Dixon Entrance to Kodiak Island during August to September, 2004, MacLean and Koski (2005) included density estimates of cetaceans and pinnipeds for each of three depth ranges (<100 m, 100 to 1,000 m, and >1,000 m) during non-seismic periods. Hauser and Holst (2009) reported density estimates during non-seismic periods for all marine mammals sighted during a September to early October seismic cruise in southeast Alaska for each of the same three depth ranges as MacLean and Koski (2005). Rone *et al.* (2010) conducted surveys of the nearshore and offshore GOA during April, 2009 and provided estimates of densities of humpback and fin whales and provided maps with sightings of other species.

Most surveys for pinnipeds in Alaska waters have estimated the number of animals at haul-out sites, not in the water (*e.g.,* Loughlin, 1994; Sease *et al.,* 2001; Withrow and Cesarone, 2002; Sease and York, 2003). The Department of the Navy (DON, 2009) estimated monthly in-water densities of several species of pinnipeds in the offshore GOA based on shore counts and biological (mostly breeding) information. To our knowledge, the only direct information available on at-sea densities of pinnipeds in and near the survey area was provided by MacLean and Koski (2005) and Hauser and Holst (2009).

Table 2 (Table 5 of the EA) gives the estimated average (best) and maximum densities in each of three depth ranges for each species of marine mammals expected to occur in the waters of the central and western GOA. L–DEO used the densities reported by MacLean and Koski (2005) and Hauser and Holst (2009), and those calculated from effort and sightings in Dahlheim and Towell (1994), Waite (2003), and Rone *et al.* (2010) have been corrected for both trackline detection probability and availability bias using correction factors from Dahlheim *et al.* (2000) and Barlow and Forney (2007). Trackline detection probability bias is associated with diminishing sightability with increasing lateral distance from the trackline (f[0]). Availability bias refers to the fact that there is less-than-100% probability of sighting an animal that is present along the survey trackline f(0), and it is measured by g(0).

Table 2 (Table 5 of the EA) incorporates the densities from the aforementioned studies plus those from the following surveys. L–DEO included the killer whale and mysticete densities from the easternmost blocks (1 to 10) surveyed by Zerbini *et al.* (2006, 2007), and the harbor porpoise densities for the Kodiak and Alaska Peninsula survey areas from Table 3 of Dahlheim *et al.,* (2000) and the Pacific white-sided dolphin data from only the June or July surveys of Dahlheim and Towell (1994). Maps of effort and sightings in Waite (2003) and effort in Zerbini *et al.* (2006, 2007) were used to roughly allocate effort and sightings or effort between water depths less than 100 m and 100 to 1,000 m. Offshore effort and maps of sightings in the offshore stratum of Rone *et al.* (2010) were used to calculate densities for water depths greater than 1,000 m. Densities of Steller sea lion, northern fur seals, and northern elephant seals in water depths greater than 1,000 m were taken from DON (2009; Appendix E, Table 5) for July, and those in water depths less than 1,000 m are from MacLean and Koski (2005) and Hauser and Holst (2009).

There is some uncertainty about the representativeness of the data and the assumptions used in the calculations below for three main reasons:

(1) The timing of most of the survey effort (17,806 km [9,614.5 nmi]) (*i.e.,* one of the surveys of Dahlheim and Towell [1994] and the surveys of Dahlheim *et al.* (2000), Waite [2003], MacLean and Koski (2005), and Zerbini *et al.* [2006, 2007]) overlaps the timing of the survey, but some survey effort (4,693 km [2,534 nmi])—(*i.e.,* two of the surveys of Dahlheim and Towell [1994] and the surveys of Rone *et al.* [2010] and Hauser and Holst [2009]), was earlier (April or June) or later (September to October) than the July to August survey;

(2) Surveys by MacLean and Koski (2005), Hauser and Holst (2009), and Dahlheim and Towell (1994) were conducted primarily in southeast Alaska (east of the study area); and

(3) Only the McLean and Koski (2005), Hauser and Holst (2009), and Rone *et al.* (2010) surveys included depths greater than 1,000 m, whereas approximately 53% of the line-km are in water depths greater than 1,000 m. However, the densities are based on a considerable survey effort (22,500 km [12,149 nmi], including 17,806 km in months that overlap the survey period), and the approach used here is believed to be the best available approach.

Also, to provide some allowance for these uncertainties, ''maximum estimates'' as well as ''best estimates'' of the densities present and numbers potentially affected have been derived. Best estimates of density are effort-weighted mean densities from all previous surveys, whereas maximum estimates of density come from the individual survey that provided the highest density. For pinnipeds in deep water where only one density was available (DON, 2009), that density was used as the best estimate and the maximum is 1.5 times the best estimate.

For one species, the Dall's porpoise, density estimates in the original reports are much higher than densities expected during the survey, because this porpoise is attracted to vessels. L–DEO estimates for Dall's porpoises are from vessel-based surveys without seismic activity; they are overestimates possibly by a factor of 5 times, given the tendency of this species to approach vessels (Turnock and Quinn, 1991). Noise from the airgun array during the survey is expected to at least reduce and possibly eliminate the tendency of this porpoise to approach the vessel. Dall's porpoises are tolerant of small airgun sources (MacLean and Koski, 2005) and tolerated higher sound levels than other species during a large-array survey (Bain and Williams, 2006); however, they did respond to that and another large airgun array by moving away (Calambokidis and Osmek, 1998; Bain and Williams, 2006). Because of the probable overestimates, the best and maximum estimates for Dall's porpoises shown in Table 2 (Table 3 of the IHA application) are one-quarter of the reported densities. In fact, actual densities are probably slightly lower than that.

L–DEO's estimates of exposures to various sound levels assume that the

surveys will be fully completed including the contingency line; in fact, the ensonified areas calculated using the planned number of line-km have been increased by 25% to accommodate lines that may need to be repeated, equipment testing, *etc.* As is typical during offshore ship surveys, inclement weather and equipment malfunctions are likely to cause delays and may limit the number of useful line-kilometers of seismic operations that can be undertaken. Furthermore, any marine mammal sightings within or near the designated EZs will result in the power-down or shut-down of seismic operations as a mitigation measure. Thus, the following estimates of the numbers of marine mammals potentially exposed to sound levels of 160 dB re 1 μPa (rms) are precautionary and probably overestimate the actual numbers of marine mammals that might be involved. These estimates also assume that there will be no weather, equipment, or mitigation delays, which is highly unlikely.

L–DEO estimated the number of different individuals that may be exposed to airgun sounds with received levels greater than or equal to 160 dB re 1 μPa (rms) on one or more occasions by considering the total marine area that would be within the 160 dB radius around the operating airgun array on at least one occasion and the expected density of marine mammals. The number of possible exposures (including repeated exposures of the same individuals) can be estimated by considering the total marine area that would be within the 160 dB radius around the operating airguns, including areas of overlap. In the survey, the seismic lines are widely spaced in the survey area, so few individual marine mammals would be exposed more than once during the survey. The area including overlap is only 1.3 times the area excluding overlap. Thus, few individual marine mammals would be exposed more than once during the survey. Moreover, it is unlikely that a particular animal would stay in the area during the entire survey.

For each depth stratum, the number of different individuals potentially exposed to received levels greater than or equal to 160 re 1 μPa (rms) was calculated by multiplying:

(1) The expected species density, either ''mean'' (*i.e.,* best estimate) or ''maximum'', times

(2) The anticipated area to be ensonified to that level during airgun operations excluding overlap.

The area expected to be ensonified was determined by entering the planned survey lines into a MapInfo Geographic Information System (GIS), using the GIS to identify the relevant areas by ''drawing'' the applicable 160 dB isopleth (see Table 1 of the IHA application) around each seismic line, and then calculating the total area within the isopleths. Areas of overlap (because of lines being closer together than the 160 dB radius) were limited and included only once when estimating the number of individuals exposed.

Applying the approach described above, approximately 49,679 km^2 (14,841.1 nmi^2) (approximately 62,099 km^2 [18,105.2 nmi^2] including the 25% contingency) would be within the 160 dB isopleth on one or more occasions during the survey. For less than 100 m depth, the areas would be 32,451 km^2 (9,487.4 nmi^2) (40,564 km^2 [11,826.6 nmi^2] including the 25% contingency). For 100 to 1,000 m, the areas would be 8,612 km^2 (2,510.9 nmi^2) (10,765 km^2 [3,138.6 nmi^2] including the 25% contingency). For greater than 1,000 m depth, the areas would be 8,616 km^2 (2,512 nmi^2) (10,770 km^2 [3,140 nmi^2] including the 25% contingency). Because this approach does not allow for turnover in the marine mammal populations in the study area during the course of the survey, the actual number of individuals exposed could be underestimated in some cases. However, the conservative (*i.e.,* probably overestimated) densities used to calculate the numbers exposed may offset this. In addition, the approach assumes that no cetaceans will move away from or toward the trackline as the *Langseth* approaches in response to increasing sound levels prior to the time the levels reach 160 dB, which will result in overestimates for those species known to avoid seismic vessels.

Table 3 (Table 4 of the IHA application) shows the best and maximum estimates of the number of different individual marine mammals that potentially could be exposed to greater than or equal to 160 dB re 1 μPa (rms) during the seismic survey if no animals moved away from the survey vessel. The requested take authorization, given in Table 3 (the far right column of Table 4 of the IHA application), is based on the best estimates rather than the maximum estimates of the numbers exposed, because there was little uncertainty associated with the method of estimating densities. For cetacean species not listed under the ESA that could occur in the study area but were not sighted in the surveys from which density estimates were calculated—gray whale (<0.1%), Risso's dolphin (<0.1%), short-finned pilot whale (NA), and Stejneger's beaked whale (NA)—the average group size has been used to request take authorization. For ESA-listed cetacean species unlikely to be encountered during the study (North Pacific right, sei, blue, and beluga whales), the requested takes are zero.

The ''best estimate'' of the number of individual cetaceans that could be exposed to seismic sounds with received levels greater than or equal to 160 dB re 1 μPa (rms) during the survey is 4,392 (see Table 4 of the IHA application) for all three depth ranges combined. That total includes 1,824 humpback whales, 60 minke whales, 598 fin whales, 5 sperm whales, 12 Cuvier's beaked whales, 4 Baird's beaked whales, 127 Pacific white-sided dolphins, 415 killer whales, and180 harbor porpoises which would represent 8.8%, 0.2%, 3.7%, 0.1%, 0.1%, 0.1%, 0.1%, 4.9%, and 0.1% of the regional populations, respectively. After humpback whales, Dall's porpoises are expected to be the most common species in the study area; the best estimate of the number of Dall's porpoises that could be exposed is 1,167 or about 0.1% of the regional population. This may be a slight overestimate because the estimated densities are slight overestimates. Estimates for other species are lower. The ''maximum estimates'' total 12,625 cetaceans for the three depth ranges combined.

''Best estimates'' of 270 Steller sea lions and 218 harbor seals could be exposed to airgun sounds with received levels greater than or equal to 160 dB re 1 μPa (rms). These estimates represent 0.3% of the Steller sea lion regional population and less than 0.1% of the harbor seal regional population. The estimated numbers of pinnipeds that could be exposed to received levels greater than or equal to 160 dB re 1 μPa (rms) are probably overestimates of the actual numbers that will be affected. Northern fur seals and northern elephant seals are at their rookeries in August. No take has been requested for North Pacific right, sei, and blue whales, beluga whales, Northern elephant seals, Northern fur seals, or California sea lions because they are unlikely to be encountered in the study area.

TABLE 3—ESTIMATES OF THE POSSIBLE NUMBERS OF MARINE MAMMALS EXPOSED TO DIFFERENT SOUND LEVELS ≥160 dB DURING L–DEO'S SEISMIC SURVEY IN THE WESTERN GOA DURING JUNE TO AUGUST, 2011

Species	Estimated number of individuals exposed to sound levels ≥ 160 dB re 1 μPa (best [1])	Estimated number of individuals exposed to sound levels ≥ 160 dB re 1 μPa (maximum [1])	Take authorized	Approximate percent of regional population [2] (best)
Mysticetes:				
North Pacific right whale	0	0	1	0.5
Gray whale	0	0	[3] 6	<0.1
Humpback whale	1,824	3,458	1,824	8.8
Minke whale	60	308	60	0.2
Sei whale	0	0	1	<0.1
Fin whale	598	2,166	598	3.7
Blue whale	0	0	1	<0.1
Odontocetes:				
Sperm whale	5	21	5	<0.1
Cuvier's beaked whale	12	19	12	0.1
Baird's beaked whale	4	6	4	0.1
Stejneger's beaked whale	0	0	[3] 15	NA
Beluga whale	0	0	0	0
Pacific white-sided dolphin	127	348	127	<0.1
Risso's dolphin	0	0	[3] 33	<0.1
Killer whale	415	2,292	415	4.9
Short-finned pilot whale	0	0	[3] 50	NA
Harbor porpoise	180	2,050	180	0.1
Dall's porpoise	1,167	1,957	1,167	0.1
Pinnipeds:				
Northern fur seal	0	0	0	0
Steller sea lion	270	365	270	0.3
California sea lion	NA	NA	0	NA
Harbor seal	218	299	218	0.1
Northern elephant seal	0	0	0	0

[1] Best and maximum estimates are based on densities from Table 1 (Table 4 of the IHA application) and ensonified areas (including 25% contingency) for 160 dB of 40,564 km^2, 10,765 km^2, and 10,770 km^2 for <100 m, 100 to 1,000 m, and >1,000 m depth ranges, respectively.
[2] Regional population size estimates are from Table 1 (see Table 2 of the IHA application); NA means not available.
[3] Requested takes for species not sighted in surveys from which densities were derived are based on group size.

Encouraging and Coordinating Research

L–DEO and NSF will coordinate the planned marine mammal monitoring program associated with the seismic survey in the western GOA with other parties that may have an interest in the area and/or be conducting marine mammal studies in the same region during the seismic survey. L–DEO and NSF will coordinate with applicable U.S. Federal, State, and Borough agencies, and will comply with their requirements. Actions of this type that are underway include (but are not limited to) the following:

- Coordination with the Alaska Department of Fish and Game concerning fisheries issues in state waters.
- Contact Alaska Native Harbor Seal Commission, the Aleut Marine Mammal Commission, and the Alaska Sea Otter and Steller Sea Lion Commission with regard to potential concerns about interactions with fisheries and subsistence hunting.
- Contact USFWS regarding concerns about possible impacts on sea otters and critical habitat (for ESA).
- Contact USFWS avian biologists (Kathy Kuletz and Tim Bowman) regarding potential interaction with seabirds (for ESA).
- Contact Mike Holley, U.S. Army Corps of Engineers (ACOE), to confirm that no permits will be required by the ACOE for the survey.
- A Coastal Project Questionnaire and Certification statement will be submitted with a copy of the EA to the State of Alaska to confirm that the project is in compliance with state and local Coastal Management Programs.
- Contact the National Weather Service (NWS; Jack Endicott) about the survey with regard to the location of NWS buoys in the survey area and the tracklines.
- Contact the logistics coordinator of the local commercial fish processor, to ensure that there will be minimal interference with the local salmon fishery.

Negligible Impact and Small Numbers Analysis and Determination

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, NMFS evaluated factors such as:

(1) The number of anticipated injuries, serious injuries, or mortalities;

(2) The number, nature, intensity, and duration of Level B harassment (all relatively limited);

(3) The context in which the takes occur (*i.e.,* impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);

(4) The status of stock or species of marine mammals (*i.e.,* depleted, not depleted, decreasing, increasing, stable,

and impact relative to the size of the population);

(5) Impacts on habitat affecting rates of recruitment or survival; and

(6) The effectiveness of monitoring and mitigation measures (*i.e.,* the manner and degree in which the measure is likely to reduce adverse impacts to marine mammals, the likely effectiveness of the measures, and the practicability of implementation).

For reasons stated previously in this document, and in the proposed notice of an IHA (76 FR 26255, May 6, 2011), the specified activities associated with the marine seismic survey are not likely to cause PTS, or other non-auditory injury, serious injury, or death because:

(1) The likelihood that, given sufficient notice through relatively slow ship speed, marine mammals are expected to move away from a noise source that is annoying prior to its becoming potentially injurious;

(2) The potential for temporary or permanent hearing impairment is relatively low and would likely be avoided through the incorporation of the required monitoring and mitigation measures (described above);

(3) The fact that pinnipeds would have to closer than 460 m (1,509.2 ft) in deep water, 615 m (2,017.7 ft) in intermediate water, and 770 m (2,526.3 ft) in shallow water when the 36 airgun array and 12 m (39.4 ft) in deep water, 18 m (59.1 ft) in intermediate water, and 150 m (492.1 ft) in shallow water when the single airgun is in use at 6 to 12 m (19.7 to 39.4 ft) tow depth from the vessel to be exposed to levels of sound believed to have even a minimal chance of causing PTS;

(4) The fact that cetaceans would have to be closer than 1,100 m (3,608.9 ft) in deep water, 1,810 m (5,938.3 ft) in intermediate water, and 2,520 m (8,267.7 ft) in shallow water when the 36 airgun array is in use at 12 m tow depth, and 40 m (131.2 ft) in deep water, 60 m (196.9 ft) in intermediate water, and 296 m (971.1 ft) in shallow water when the single airgun is in use at 6 to 12 m tow depth from the vessel to be exposed to levels of sound believed to have even a minimal chance of causing PTS; and

(5) The likelihood that marine mammal detection ability by trained PSOs is high at close proximity to the vessel.

No injuries, serious injuries, or mortalities are anticipated to occur as a result of L–DEO's planned marine seismic survey, and none are authorized by NMFS. Only short-term, behavioral disturbance is anticipated to occur due to the brief and sporadic duration of the survey activities. Table 3 in this document outlines the number of Level B harassment takes that are anticipated as a result of the activities. Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described (see Potential Effects on Marine Mammals section above) in this notice, the activity is not expected to impact rates of recruitment or survival for any affected species or stock.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (*i.e.,* 24 hr cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). While seismic operations are anticipated to occur on consecutive days, the entire duration of the survey is not expected to last more than 37 days and the *Langseth* will be continuously moving along planned tracklines. Seismic operations in the study area will be carried out for approximately 16 days. Therefore, the seismic survey will be increasing sound levels in the marine environment surrounding the vessel for several weeks in the study area. Of the 23 marine mammal species under NMFS jurisdiction that are known to or likely to occur in the study area, eight are listed as threatened or endangered under the ESA: North Pacific right, humpback, sei, fin, blue, sperm, and Cook Inlet DPS beluga whales, and Steller sea lions. These species are also considered depleted under the MMPA. The affected humpback whale and Eastern stock of Steller sea lion populations have been increasing in recent years. There is generally insufficient data to determine population trends for the other depleted species in the study area. To protect these animals (and other marine mammals in the study area), L–DEO must cease or reduce airgun operations if animals enter designated zones. If a North Pacific right, sei, blue, and/or beluga whale is visually sighted, the airgun array will be shut-down regardless of the distance of the animal(s) to the sound source. The airgun array will not resume firing after the last documented whale visual sighting. Concentrations of humpback, fin, and/or killer whales will be avoided, if possible, and the array will be powered-down if necessary. For purposes of this IHA, a concentration or group of whales will consist of when three or more individuals are visually sighted that do not appear to be traveling (*e.g.,* feeding, socializing, *etc.*). No injury, serious injury, or mortality is expected to occur and due to the nature, degree, and context of the Level B harassment anticipated, the activity is not expected to impact rates of recruitment or survival.

As mentioned previously, NMFS estimates that 19 species of marine mammals under its jurisdiction could be potentially affected by Level B harassment over the course of the IHA. For each species, these numbers are small (each, one percent or less, except for humpback [8.8%], fin [3.7%], and killer [4.9%] whales) relative to the regional population size. The population estimates for the marine mammal species that may be taken by harassment, were provided in Table 1 of this document.

NMFS's practice has been to apply the 160 dB re 1 μPa (rms) received level threshold for underwater impulse sound levels to determine whether take by Level B harassment occurs. Southall *et al.* (2007) provide a severity scale for ranking observed behavioral responses of both free-ranging marine mammals and laboratory subjects to various types of anthropogenic sound (see Table 4 in Southall *et al.* [2007]).

NMFS has determined, provided that the aforementioned mitigation and monitoring measures are implemented, that the impact of conducting a marine geophysical survey in the western GOA, June to August, 2011, may result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of small numbers of certain species of marine mammals. See Table 3 (above) for the authorized take numbers of cetaceans and pinnipeds.

While behavioral modifications, including temporarily vacating the area during the operation of the airgun(s), may be made by these species to avoid the resultant acoustic disturbance, the availability of alternate areas within these areas and the short and sporadic duration of the research activities, have led NMFS to determine that this action will have a negligible impact on the species in the specified geographic region.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS finds that L–DEO's planned research activities, will result in the incidental take of small numbers of marine mammals, by Level B harassment only, and that the total taking from the marine seismic survey

will have a negligible impact on the affected species or stocks of marine mammals; and that impacts to affected species or stocks of marine mammals have been mitigated to the lowest level practicable.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Marine mammals are hunted legally in Alaska waters by coastal Alaska Natives. In the GOA, the marine mammals under NMFS jurisdiction that are hunted are Steller sea lions and harbor seals. In 2007, a total of 1,428 harbor seals were taken by Alaska Natives (Wolfe *et al.,* 2009); 654 were taken from the southeast Alaska stock, 686 were taken from the GOA stock, and 88 were taken from the Bering Sea stock (Allen and Angliss, 2010). In 2008, 1,462 harbor seals were taken by Alaska Natives (Wolfe *et al.,* 2009). Most harbor seals were taken by communities in southeast Alaska (594), the North Pacific rim (277), Kodiak Island (192), and the South Alaska Peninsula (125; Wolfe *et al.,* 2009). The seasonal distribution of harbor seal takes by Alaska Natives typically shows two distinct hunting peaks—one during spring and one during all and early winter; however, this pattern was hardly noticeable in 2008 (Wolfe *et al.,* 2009). In general the months of highest harvest are September through December, with a smaller peak in March. Harvests are traditionally low from May through August, when harbor seals are raising pups and molting.

In 2007, a total of 217 Steller sea lions were taken by Alaska Natives, excluding St. Paul Island (Wolfe *et al.,* 2009); 211 were from the western stock and 6 were from the eastern stock (Allen and Angliss, 2010). In 2008, 146 sea lions were taken by Alaska Natives (Wolfe *et al.,* 2009). Most sea lions were taken by communities in the Aleutian Islands (48) and the Pribilof Islands (36); 25 were taken in the North Pacific Rim, 19 in the Kodiak Island region, 10 in southeast Alaska, and 9 along the South Alaska Peninsula (Wolfe *et al.,* 2009).

The project could potentially impact the availability of marine mammals for harvest in a very small area immediately around the *Langseth,* and for a very short time period during seismic activities. Considering the limited time and locations for the planned seismic survey, the project is not expected to have any significant impacts to the availability of Steller sea lions and harbor seals for subsistence harvest.

Section 101(a)(5)(D) also requires NMFS to determine that the authorization will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. Based on the information above, subsistence uses of marine mammals in the study area (waters of the western GOA) that implicate MMPA section 101(a)(5)(D) are not expected to be impacted.

Endangered Species Act

Of the species of marine mammals that may occur in the survey area, several are listed as endangered under the ESA, including the North Pacific right, humpback, sei, fin, blue, and sperm whales, as well as the Cook Inlet DPS of beluga whales and the western stock of Steller sea lions. The eastern stock of Steller sea lions is listed as threatened. Critical habitat for the North Pacific right whale and Steller sea lion is also found within the GOA. Under section 7 of the ESA, NSF has initiated formal consultation with the NMFS, Office of Protected Resources, Endangered Species Division, on this seismic survey. NMFS's Office of Protected Resources, Permits, Conservation and Education Division, has initiated formal consultation under section 7 of the ESA with NMFS's Office of Protected Resources, Endangered Species Division, to obtain a Biological Opinion (BiOp) evaluating the effects of issuing the IHA on threatened and endangered marine mammals and, if appropriate, authorizing incidental take. In June 2011, NMFS issued a BiOp and concluded that the action and issuance of the IHA are not likely to jeopardize the continued existence of North Pacific right, humpback, sei, fin, blue, and sperm whales, Cook Inlet DPS of beluga whales, and Steller sea lions. The BiOp also concluded that designated critical habitat for these species would not be affected by the survey. NSF and L–DEO must comply with the Relevant Terms and Conditions of the Incidental Take Statement (ITS) corresponding to NMFS's BiOp issued to NSF, L–DEO, and NMFS's Office of Protected Resources. L–DEO must also comply with the mitigation and monitoring requirements included in the IHA in order to be exempt under the ITS in the BiOp from the prohibition on take of listed endangered marine mammal species otherwise prohibited by section 9 of the ESA.

National Environmental Policy Act (NEPA)

To meet NMFS's NEPA (42 U.S.C. 4321 *et seq.*) requirements for the issuance of an IHA to L–DEO, NSF prepared an ''Environmental Assessment on a Marine Seismic Survey in the Gulf of Alaska, July–August 2011,'' which incorporated an ''Environmental Assessment of a Marine Geophysical Survey by the R/V *Marcus G. Langseth* in the western Gulf of Alaska, July–August 2011,'' prepared by LGL. NMFS conducted an independent review and evaluation of the document for sufficiency and compliance with the Council on Environmental Quality regulations and NOAA Administrative Order (NAO) 216–6 § 5.09(d) and determined that issuance of the IHA is not likely to result in significant impacts on the human environment. Consequently, NMFS has adopted NSF's EA and prepared a Finding of No Significant Impact (FONSI) for the issuance of the IHA. An Environmental Impact Statement is not required and will not be prepared for the action.

Authorization

NMFS has issued an IHA to L–DEO for the take, by Level B harassment, of small numbers of marine mammals incidental to conducting a marine geophysical survey in the western GOA, June to August, 2011, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: June 24, 2011.

James H. Lecky,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2011–16606 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Commerce Spectrum Management Advisory Committee Meeting

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a public meeting of the Commerce Spectrum Management Advisory Committee (Committee). The Committee provides advice to the Assistant Secretary of Commerce for Communications and Information on spectrum management policy matters.

DATES: The meeting will be held on July 27, 2011, from 1 p.m. to 4 p.m., Mountain Daylight Savings Time.

ADDRESSES: The meeting will be held at the Institute for Telecommunication Sciences, Conference Room 1107, 325 Broadway, Boulder, Colorado. Public comments may be mailed to Commerce Spectrum Management Advisory Committee, National

Telecommunications and Information Administration, 1401 Constitution Avenue, NW., Room 4099, Washington, DC 20230 or e-mailed to *spectrumadvisory@ntia.doc.gov*.

FOR FURTHER INFORMATION CONTACT: Bruce M. Washington, Designated Federal Officer, at (202) 482–6415 or *BWashington@ntia.doc.gov;* and/or visit NTIA's Web site at *http://www.ntia.doc.gov/advisory/spectrum*.

SUPPLEMENTARY INFORMATION:

Background: The Committee provides advice to the Assistant Secretary of Commerce for Communications and Information on needed reforms to domestic spectrum policies and management in order to: license radio frequencies in a way that maximize their public benefits; keep wireless networks open to innovation as possible; and make wireless services available to all Americans (*See* charter, at *http://www.ntia.doc.gov/advisory/spectrum/csmac_charter.html*). This Committee is subject to the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, and is consistent with the National Telecommunications and Information Administration Act, 47 U.S.C. 904(b). The Committee functions solely as an advisory body in compliance with the FACA. For more information about the Committee visit: *http://www.ntia.doc.gov/advisory/spectrum*.

Matters To Be Considered: The Committee will receive recommendations from sub-committees on matters related to the accomplishment of the President's ten-year goal of identifing 500 megahertz for wireless broadband. The Sharing, Unlicensed, and Spectrum Management Improvements Sub-committees will provide an in-progress report on the status of their determinations and findings and facilitate discussion on recommended next steps. NTIA will post a detailed agenda on its Web site, *http://www.ntia.doc.gov*, prior to the meeting. There also will be an opportunity for public comment at the meeting.

Time and Date: The meeting will be held on July 27, 2011 from 1 p.m. to 4 p.m., Mountain Daylight Savings Time. The times and the agenda topics are subject to change. The meeting may be webcast or made available via audio link. Please refer to NTIA's Web site, *http://www.ntia.doc.gov,* for the most up-to-date meeting agenda and access information.

Place: The meeting will be held at the Institute for Telecommunication Sciences, Conference Room 1107, 325 Broadway, Boulder, Colorado. The meeting will be open to the public and press on a first-come, first-served basis. Space is limited. The public meeting is physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Mr. Washington, at (202) 482–6415 or *BWashington@ntia.doc.gov*, at least five (5) business days before the meeting. In order to gain access to the site (ITS), all attendees are required to have two forms of identification (one MUST be a photo). Details regarding access to the facility are available at *http://www.boulder.nist.gov/police/Foreign_Nationals.html.*

Status: Interested parties are invited to attend and to submit written comments to the Committee at any time before or after the meeting. Parties wishing to submit written comments for consideration by the Committee in advance of this meeting must send them to NTIA's Washington, DC office at the above-listed address and comments must be received by close of business on July 18, 2011, to provide sufficient time for review. Comments received after July 18, 2011, will be distributed to the Committee, but may not be reviewed prior to the meeting. Paper submissions must also include a compact disc (CD) in HTML, ASCII, Word or WordPerfect format. CDs must be labeled with the name and organizational affiliation of the filer, and the specified name of the word processing program and version used to create the document. Alternatively, comments may be submitted electronically to *spectrumadvisory@ntia.doc.gov*. Comments provided via electronic mail also may be submitted in one or more of the formats specified above.

Records: NTIA maintains records of all Committee proceedings. Committee records are available for public inspection at the U.S. Department of Commerce, National Telecommunications and Information Administration, 1401 Constitution Avenue, NW., Washington, DC. Documents including the Committee's charter, membership list, agendas, minutes, and any reports are available on NTIA's Committee Web page at *http://www.ntia.doc.gov/advisory/spectrum*.

Dated: June 27, 2011.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2011–16542 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO–T–2011–0009]

Trademark Board Manual of Procedure, Third Edition

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (''USPTO'') issued the third edition of the *Trademark Board Manual of Procedure* (''TBMP'') on May 6, 2011.

ADDRESSES: The USPTO prefers that any suggestions for improving the form and content of the TBMP be submitted via electronic mail message to *TBMPFederalRegisterComments@uspto.gov.* Written comments may also be submitted by mail addressed to: Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, VA 22313–1451, marked to the attention of Angela Lykos, Administrative Trademark Judge and Editor, *Trademark Board Manual of Procedure,* or by hand delivery to the Trademark Assistance Center, Concourse Level, James Madison Building-East Wing, 600 Dulany Street, Alexandria, Virginia, marked to the attention of Angela Lykos, Administrative Trademark Judge and Editor, *Trademark Board Manual of Procedure.*

FOR FURTHER INFORMATION ON THIS NOTICE CONTACT: Angela Lykos, Administrative Trademark Judge, by electronic mail at: *Angela.Lykos@uspto.gov;* or by mail addressed to: Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, VA 22313–1451, marked to the attention of Angela Lykos. Do not use the *Angela.Lykos@uspto.gov* e-mail address to submit suggestions for improving the form or content of the TBMP. Instead, use the e-mail address noted above: *TBMPFederalRegisterComments@uspto.gov.*

SUPPLEMENTARY INFORMATION:

On May 6, 2011, the USPTO issued the third edition of the TBMP, which provides Trademark Trial and Appeal Board (''TTAB'') judges and attorneys, trademark applicants and registrants, and attorneys and representatives for trademark applicants and registrants a comprehensive reference on the practices and procedures for inter partes and ex parte proceedings before the TTAB. The guidance provided by the manual does not have the force and effect of law. Its guidelines have been developed as a matter of internal Office

management and are not intended to create any right or benefit, substantive or procedural, enforceable by any party against the Office. While following the guidelines in the manual will aid parties and their attorneys in navigating the procedures applicable to inter partes cases, parties and their attorneys are also free to discuss and agree to various alternative processes that may prove more efficient and economical. These Accelerated Case Resolution options are discussed in various sections of the manual and current information on these options is available at the TTAB web page: *http://www.uspto.gov/trademarks/process/appeal/index.jsp.*

The third edition incorporates TTAB practice, changes to the Trademark Rules of Practice, the Federal Rules of Civil Procedure and Federal Rules of Evidence where relevant, and case law reported prior to November 15, 2010. The policies stated in this edition supersede any previous policies stated in prior editions or any other statement of USPTO policy, to the extent that there is any conflict. The TBMP may be viewed or downloaded free of charge from the TTAB home page of the USPTO Web site at the address noted above.

Dated: June 20, 2011.

David J. Kappos,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2011–16605 Filed 6–30–11; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products and a service from the Procurement List previously furnished by such agencies.

DATES: Effective Date: 8/1/2011.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, *Telephone:* (703) 603–7740, *Fax:* (703) 603–0655, or *e-mail: CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 4/15/2011 (76 FR 21336–21337); 4/29/2011 (76 FR 23998); and 5/6/2011 (76 FR 26279), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Products

NSN: 6545–00–NIB–0105—Kit, Shelter-In-Place.
NPA: Bosma Industries for the Blind, Inc., Indianapolis, IN.
Contracting Activity: Department of Veterans Affairs, NAC, Hines, IL.
Coverage: C–List for 100% of the requirement of the Department of Veterans Affairs as aggregated by the Department of Veterans Affairs National Acquisition Center, Hines, IL.

NSN: M.R. 860—Strainer, Collapsible.
NPA: Industries for the Blind, Inc., West Allis, WI.
Contracting Activity: Military Resale—Defense Commissary Agency, Fort Lee, VA.
Coverage: C–List for the requirements of military commissaries and exchanges as aggregated by the Defense Commissary Agency.

NSN: 9915–00–NSH–0002—Army Retiring Soldiers Kit.
NPA: South Texas Housing and Community Development Corp, Inc., San Antonio, TX.
Contracting Activity: Department of the Army, Fort Sam Houston Contract Center, TX.
Coverage: C–List for 100% of the requirement of the Department of the Army, as aggregated by the Fort Sam Houston Contract Center, Fort Sam Houston, TX.

Services

Service Type/Location: Mail Service, CDC Transshipping Facility, 3719 North Peachtree Rd., Atlanta, GA.
NPA: Tommy Nobis Enterprises, Inc., Marietta, GA.
Contracting Activity: Dept of Health and Human Services/Centers for Disease Control, Atlanta, GA.

Service Type/Location: Dining Facility Attendant and Cook Support Service, Army 7th Special Forces Group, Building 4570, Eglin AFB, FL.
NPA: Lakeview Center, Inc., Pensacola, FL.
Contracting Activity: Dept of the Army, W6QM FT Bragg Contr Ctr, Fort Bragg, NC.

Deletions

On 4/15/2011 (76 FR 21336–21337), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and service listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and service deleted from the Procurement List.

End of Certification

Accordingly, the following products and service are deleted from the Procurement List:

Products

Scarf, Branch of Service

NSN: 8455–00–405–2294—Scarf, Branch of Service.
NPA: Lions Industries for the Blind, Inc., Kinston, NC.
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA.

NSN: 7510–01–545–3774—Calendar Pad, Type 1, 2010.
NPA: The Easter Seal Society of Western Pennsylvania, Pittsburgh, PA.
Contracting Activity: General Services Administration, New York, NY.

NSN: 8410–01–377–9373—Slacks, Woman's, Navy—Tropical Blue.
NPAs: Knox County Association for Retarded Citizens, Inc., Vincennes, IN. VGS, Inc., Cleveland, OH.
Contracting Activity: Defense Logistics Agency Troop Support, Philadelphia, PA.

Service

Service Type/Location: Administrative/ General Support Services, GSA: Various Field Offices, GSA Richmond Field Office, Richmond, VA.
NPA: Goodwill Services, Inc, Richmond, VA.
Contracting Activity: GSA/PBS/R03 Richmond FO, Richmond, VA.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2011–16577 Filed 6–30–11; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to the Procurement List.

SUMMARY: The Committee is proposing to add products and services to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received On Or Before: 8/1/2011.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, *Telephone:* (703) 603–7740, *Fax:* (703) 603–0655, or *e-mail: CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products:

NSN: 7530–01–434–4198—Index Maker, Dividers, 5–Tab, Multi-Color.
NSN: 7530–00–NIB–0916—Index Maker, Dividers, 8–Tab, Multi-Color.
NSN: 7530–00–NIB–0917—Index Maker, Dividers, 5–Tab, White.
NSN: 7530–00–NIB–0918—Index Maker, Dividers, 8–Tab, White.
NSN: 7530–00–NIB–0919—Index Maker, Dividers, 5–Tab, 5 Set Pack, White.
NSN: 7530–00–NIB–0920—Index Maker, Dividers, 8–Tab, 5 Set Pack, White.
NPA: South Texas Lighthouse for the Blind, Corpus Christi, TX.
Contracting Activity: General Services Administration, New York, NY.
Coverage: A–List for the Total Government Requirement as aggregated by the General Services Administration.

NSN: 8940–00–NIB–0094—Soup, Shelf-Stable, Cream of Mushroom, Low Sodium.
NSN: 8940–00–NIB–0095—Soup, Shelf-Stable, Cream of Chicken.
NPA: Cambridge Industries for the Visually Impaired, Somerset, NJ.
Contracting Activity: Dept of Agric/ Agricultural Marketing Service, Washington, DC.
Coverage: C–List for 100% of the requirement of the Department of Agriculture, as aggregated by the Department of Agriculture, Agricultural Marketing Service, Washington, DC.

Services:

Service Type/Locations: Custodial Service, USDA Forest Service, Chippewa National Forest Supervisor's Office, 200 Ash Avenue, Cass Lake, MN.
USDA Forest Service, Blackduck Ranger District, 417 Forestry Drive, Blackduck, MN.
NPA: Occupational Development Center, Inc., Thief River Falls, MN.
Contracting Activity: Dept of Agriculture, Forest Service, Chippewa National Forest, Cass Lake, MN.

Service Type/Locations: Administrative Services, HUD—Knoxville Field Office, 710 Locust Street, SW., Knoxville, TN.
HUD—Jackson Field Office, McCoy Federal Building, 100 W. Capitol Street, Jackson, MS.
NPA: Tommy Nobis Enterprises, Inc., Marietta, GA.
Contracting Activity: Dept of Housing and Urban Development, Chicago Regional Office, Rco, Chicago, IL.

Service Type/Locations: Custodial Services, Campbell Industrial, Buildings FTEC 977 & FTEC Trailer, Oahu, HI.
Makalapa, Buildings 16, 57, 81, 117, 200, 250, 251, 258, 259, 261, 346, 352, 388, 391, 396, 396A, 400, 402, 404, 405, 406, S1734, T9B3331 & Trailer D, Oahu, HI.
Marine Corps Base Hawaii (MCBH), Building 6470 & HANGAR 105, Kaneohe Bay, HI.
Wheeler Army Air Base, Building 107, Oahu, HI.
Ford Island, Buildings 77, 87, 170, 171, 459, 510, Hangar 133 & 167 NUWC, Oahu, HI.
Naval Computer and Telecommunications Area Master Station, (NCTAMS), Pacific Buildings 105, 108, 114 & 261, Wahiawa, HI.
Pearl City Peninsula, Buildings 987, 989, 992 & 995, Oahu, HI.
Pearl Harbor Complex, Oahu, HI.
NPA: Opportunities and Resources, Inc., Wahiawa, HI.
Contracting Activity: Dept of the Navy, Navfac Engineering Command Hawaii, Pearl Harbor, HI.

Service Type/Location: Custodial Service, Puget Sound Navy Museum, 251 First Avenue, Bremerton, WA.
NPA: Skookum Educational Programs, Bremerton, WA.
Contracting Activity: Dept of the Navy,

NAVFAC Northwest, Silverdale, WA.
Service Type/Location: Contact Center Service, DOT Federal Motor Carrier Safety Administration, New Entrant Contact Center, Washington, DC, (*Offsite Location:* 507 Kent Street, Utica, NY).
NPA: Central Association for the Blind & Visually Impaired, Utica, NY.
Contracting Activity: Department of Transportation, Federal Motor Carrier Safety Administration, Washington, DC.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2011–16578 Filed 6–30–11; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Business Board

AGENCY: Department of Defense.

ACTION: Meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces the following Federal advisory committee meeting of the Defense Business Board (DBB).

DATES: The public meeting of the Defense Business Board (hereafter referred to as ''the Board'') will be held on Thursday, July 21, 2011. The meeting will begin at 9:30 a.m. and end at 12 p.m. (Escort required; See guidance in section below, ''Public's Accessibility to the Meeting.'')

ADDRESSES: Room 3D557 in the Pentagon, Washington, DC (escort required; See guidance in section below, ''Public's Accessibility to the Meeting.'')

FOR FURTHER INFORMATION CONTACT: The Board's Designated Federal Officer (DFO) is Phyllis Ferguson, Defense Business Board, 1155 Defense Pentagon, Room 5B1088A, Washington, DC 20301–1155, *Phyllis.ferguson@osd.mil,* 703–695–7563. For meeting information please contact Ms. Debora Duffy, Defense Business Board, 1155 Defense Pentagon, Room 5B1088A, Washington, DC 20301–1155, *Debora.Duffy@osd.mil,* (703) 697–2168.

SUPPLEMENTARY INFORMATION: At this meeting, the Board will deliberate draft findings and recommendations from the ''Energy Acquisition,'' ''Military Retirement—Alternative Plans,'' ''Global Logistics Management'' and ''Corporate Downsizing Applications for DoD'' Task Groups. The Board will also receive updates from the ''New Ways to Execute the Joint Requirements Process,'' and ''Information Technology Modernization'' Task Groups. The mission of the Board is to advise the Secretary of Defense on effective strategies for implementation of best business practices of interest to the Department of Defense.

Agenda

Public Session

9:30–10:30 Deliberation of Task Group Recommendations

—*Energy Acquisition*

—*Military Retirement—Alternative Plans*

10:30–10:45 Break

10:45–11:45 Deliberation of Task Group Recommendations

—*Global Logistics Management*

—*Corporate Downsizing Applications for DoD*

11:45–12 Task Group Updates

—*New Ways to Execute the Joint Requirements Process*

—*Information Technology Modernization*

End of Public Session

Availability of Materials for the Meeting: A copy of the agenda for the July 21, 2011 meeting and the terms of reference for the Task Groups may be obtained at the meeting or from the Board's Web site at *http://dbb.defense.gov/meetings.html* under ''Upcoming Meetings: 21 July 2011.''

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, part of this meeting is open to the public. Seating is limited and is on a first-come basis. All members of the public who wish to attend the public session of the meeting must contact Ms. Debora Duffy at the number listed in this notice no later than noon on Wednesday, July 13 to register and make arrangements for a Pentagon escort, if necessary. Public attendees requiring escort should arrive at the Pentagon Metro Entrance in time to complete security screening by no later than 9 a.m. To complete security screening, please come prepared to present two forms of identification and one must be a pictured identification card.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Ms. Duffy at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Procedures for Providing Public Comments

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the Board about its mission and topics pertaining to this public session.

Written comments should be received by the DFO at least five (5) business days prior to the meeting date so that the comments may be made available to the Board for their consideration prior to the meeting. Written comments should be submitted via e-mail to the address for the DFO given in this notice in either Adobe Acrobat or Microsoft Word format. Please note that since the Board operates under the provisions of the Federal Advisory Committee Act, as amended, all public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the Board's Web site.

Dated: June 27, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2011–16603 Filed 6–30–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Process To Prepare a Draft Environmental Impact Statement (DEIS) for the Alaska Department of Transportation & Public Facilities Foothills West Transportation Access Project

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Extension of scoping comment period.

SUMMARY: In the May 20, 2011 issue of the **Federal Register** (76 FR 98:29218–29219), the U.S. Army Corps of Engineers (Corps) published its intent to prepare a DEIS to identify and analyze the potential impacts associated with the proposed Foothills West Transportation Access Project (Foothills Project). In that notice, the Corps stated the scoping comment period was to end on July 5, 2011. Instructions for submitting comments are provided in the May 20, 2011, **Federal Register** notice. In response to several requests, the Corps has decided to extend the initial scoping comment period to July 26, 2011.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Riordan, Corps Regulatory Division, Fairbanks, Alaska at (907) 474–2166.

SUPPLEMENTARY INFORMATION: None.

Dated: June 23, 2011.

Melissa C. Riordan,

Project Manager, Alaska District, U.S. Army Corps of Engineers.

[FR Doc. 2011–16543 Filed 6–30–11; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2011–0009]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Navy proposes to alter a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The changes will be effective on August 1, 2011 unless comments are received that would result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Patterson, HEAD, FOIA/Privacy Act Policy Branch, Acting, the Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350–2000, or by phone at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notice subject to the Privacy Act of 1974, (5 U.S.C. § 552a), as amended, has been published in the **Federal Register** and is available from the address in **FOR FURTHER INFORMATION CONTACT**.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, were submitted on June 28, 2011, to the House Committee on Government Report, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining records About Individual,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 28, 2011.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N05041–1

SYSTEM NAME:

Inspector General (IG) Records (November 20, 2001, 66 FR 58132).

CHANGES:

SYSTEM NAME:

Delete entry and replace with ''Naval Inspector General (IG) Investigative Records.''

SYSTEM LOCATION:

Delete entry and replace with ''Office of the Naval Inspector General, 1254 Ninth Street, SE., Washington Navy Yard, DC 20374–5006; Inspector General offices at major commands and activities throughout the Department of the Navy and other Naval activities that perform inspector general (IG) functions. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.''

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Letters/transcriptions of complaints, allegations and queries; tasking orders from the Department of Defense Inspector General, Secretary of the Navy, Chief of Naval Operations, and Commandant of the Marine Corps; requests for assistance from other Navy/Marine Corps commands and activities; appointing letters; reports of investigations, inquiries, and reviews with supporting attachments, exhibits and photographs; records of interviews and synopses of interviews; witness statements; legal review of case files; congressional inquiries and responses; administrative memoranda; letters and reports of action taken; referrals to other commands; letters to complainants and subjects of investigations; court records and results of non-judicial punishment; letters and reports of adverse personnel actions; financial and technical reports; and case number.

These records may contain Personally Identifiable Information (PII), to include full name, full Social Security Number (SSN), home and work telephone numbers, command or unit work information, home address, gender, marital status, age, rank and/or title, and home and/or work e-mail addresses. Moreover, PII that is mentioned by a witness, subject, or complainant during the course of an interview, even if that PII was not solicited, may become part of an Inspector General record.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 5014, Office of the Secretary of the Navy; 10 U.S.C. 5020, Naval Inspector General: details; duties; SECNAVINST 5430.57 series, Mission and Functions of the Naval Inspector General; SECNAVINST 5370.5 series, DON Hotline Program; and E.O. 9397 (SSN), as amended.''

* * * * *

STORAGE:

Delete entry and replace with ''Paper records, computerized database, and electronic documents.''

RETRIEVABILITY:

Delete entry and replace with ''By subject's name or SSN; complainant's name; case title or number; command; organization; location; and/or dates.''

SAFEGUARDS:

Delete entry and replace with ''Access is limited to officials/employees of the office who have a need to know. Files are stored in locked cabinets and rooms in a building with controlled access. Computer files are protected by software systems which are password protected and account restricted.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Records of historical significance are permanent. Such records will be transferred to the Naval History and Heritage Command 10 years after the case is closed, and transferred to National Archives and Records Administration 50 years after the case is closed and reviewed for declassification. Records of routine investigations are destroyed 10 years after the investigation is closed. Records of requests for assistance and complaints that are not investigated are

destroyed after 2 years. Investigation working papers are destroyed after 2 years. Database tracking records are destroyed when no longer needed for reference. All records destruction shall be accomplished by deletion, shredding or other method that will render the data unrecognizable.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Naval Inspector General, 1254 Ninth Street, SE., Washington Navy Yard, DC 20374–5006 or the local command's IG office. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Naval Inspector General, 1254 Ninth Street, SE., Washington Navy Yard, DC 20374–5006 or the relevant command's IG office. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The request should include the full name of the requester and/or case number. The records system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Naval Inspector General, 1254 Ninth Street, SE., Washington Navy Yard, DC 20374–5006 or the relevant command's IG office. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The request should include the full name of the requester and/or case number. The records system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records.''

* * * * *

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Delete entry and replace with ''Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the Office of the Naval Inspector General System Manager, Code N1.''

* * * * *

N05041–1

SYSTEM NAME:

Naval Inspector General (IG) Investigative Records.

SYSTEM LOCATION:

Office of the Naval Inspector General, 1254 Ninth Street SE., Washington Navy Yard, DC 20374–5006; Inspector General offices at major commands and activities throughout the Department of the Navy and other Naval activities that perform inspector general (IG) functions. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any person who has been the subject of, witness for, or referenced in an investigation, as well as any individual who submits a request for assistance or complaint to an Inspector General.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters/transcriptions of complaints, allegations and queries; tasking orders from the Department of Defense Inspector General, Secretary of the Navy, Chief of Naval Operations, and Commandant of the Marine Corps; requests for assistance from other Navy/Marine Corps commands and activities; appointing letters; reports of investigations, inquiries, and reviews with supporting attachments, exhibits and photographs; records of interviews and synopses of interviews; witness statements; legal review of case files; congressional inquiries and responses; administrative memoranda; letters and reports of action taken; referrals to other commands; letters to complainants and subjects of investigations; court records and results of non-judicial punishment; letters and reports of adverse personnel actions; financial and technical reports; and case number.

These records may contain Personally Identifiable Information (PII), to include full name, full Social Security Number (SSN), home and work telephone numbers, command or unit work information, home address, gender, marital status, age, rank and/or title, and home and/or work e-mail addresses. Moreover, PII that is mentioned by a witness, subject, or complainant during the course of an interview, even if that PII was not solicited, may become part of an Inspector General record.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5014, Office of the Secretary of the Navy; 10 U.S.C. 5020, Naval Inspector General: details; duties; SECNAVINST 5430.57 series, Mission and Functions of the Naval Inspector General; SECNAVINST 5370.5 series, DON Hotline Program; and E.O. 9397 (SSN), as amended.

PURPOSE(S):

To determine the facts and circumstances surrounding allegations or complaints against Department of the Navy personnel and/or Navy/Marine Corps activities.

To present findings, conclusions, and recommendations developed from investigations and other inquiries to the Secretary of the Navy, Chief of Naval Operations, Commandant of the Marine Corps, or other appropriate Commanders.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, these records contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records, computerized database, and electronic documents.

RETRIEVABILITY:

By subject's name or SSN; complainant's name; case title or number; command; organization; location; and/or dates.

SAFEGUARDS:

Access is limited to officials/employees of the office who have a need

to know. Files are stored in locked cabinets and rooms in a building with controlled access. Computer files are protected by software systems which are password protected and account restricted.

RETENTION AND DISPOSAL:

Records of historical significance are permanent. Such records will be transferred to the Naval History and Heritage Command 10 years after the case is closed, and transferred to National Archives and Records Administration 50 years after the case is closed and reviewed for declassification. Records of routine investigations are destroyed 10 years after the investigation is closed. Records of requests for assistance and complaints that are not investigated are destroyed after 2 years. Investigation working papers are destroyed after 2 years. Database tracking records are destroyed when no longer needed for reference. All records destruction shall be accomplished by deletion, shredding or other method that will render the data unrecognizable.

SYSTEM MANAGER(S) AND ADDRESS:

Naval Inspector General, 1254 Ninth Street, SE., Washington Navy Yard, DC 20374–5006 or the local command's IG office. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Naval Inspector General, 1254 Ninth Street, SE., Washington Navy Yard, DC 20374–5006 or the relevant command's IG office. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The request should include the full name of the requester and/or case number. The records system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Naval Inspector General, 1254 Ninth Street, SE., Washington Navy Yard, DC 20374–5006 or the relevant command's IG office. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

The request should include the full name of the requester and/or case number. The records system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Complainants; witnesses; Members of Congress; the media; and other military commands or government agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c) and (e) and published in 32 CFR part 701, subpart G. For additional information contact the Office of the Naval Inspector General System Manager, Code N1.

[FR Doc. 2011–16602 Filed 6–30–11; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 30, 2011.

ADDRESSES: Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Information Management and Privacy Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 28, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

Office of Special Education and Rehabilitative Services

Type of Review: New.

Title of Collection: Program Improvement Plan (PIP).

OMB Control Number: Pending.

Agency Form Number(s): N/A.

Frequency of Responses: Quarterly; Annually.

Affected Public: State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

Total Estimated Number of Annual Responses: 20.

Total Estimated Number of Annual Burden Hours: 125.

Abstract: Pursuant to Section 106 of the Rehabilitation Act of 1973, as amended, Vocational Rehabilitation agencies found to be out of compliance with federal requirements as a result of failing to meet established performance standards must develop for Rehabilitation Service Administration (RSA) approval a Program Improvement Plan (PIP) using the on-line form located on the RSA management information system. The PIP must contain goals established by the agency, including measurable targets, by which it will assess its progress toward meeting the required minimum performance levels, along with strategies for the achievement of the goals. In accordance with regulations at 34 CFR 361.89 (c), RSA reviews an agency's progress toward achieving the goals established in the PIP. For this purpose, it requires that the agency report its progress on a quarterly basis.

Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 4656. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–16609 Filed 6–30–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

DATES: Interested persons are invited to submit comments on or before August 1, 2011.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, *Attention:* Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, New Executive Office Building, Washington, DC 20503, be faxed to (202) 395–5806 or e-mailed to *oira_submission@omb.eop.gov* with a cc: to *ICDocketMgr@ed.gov.* Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The OMB is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: June 27, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title of Collection: Office of Special Education and Rehabilitative Services (OSERS) Peer Review Data Form.

OMB Control Number: 1820–0583.

Agency Form Number(s): N/A.

Frequency of Responses: On Occasion; Annually.

Affected Public: Individuals or households.

Total Estimated Number of Annual Responses: 1,875.

Total Estimated Annual Burden Hours: 470.

Abstract: Office of Special Education and Rehabilitative Services (OSERS) Peer Reviewer Data Form is used to support the peer review process panel assignments and to update individual peer reviewer personal information in the OSERS Peer Reviewer System database. This information is requested when an individual is asked to serve as a peer reviewer and/or updated biannually by persons who previously served as peer reviewers. The information is used by OSERS staff and the peer review contractor to identify potential reviewers who would be appropriate to review specific types of grant applications for funding; provide background information on each potential reviewer; and provide information on any reasonable accommodations that might be required by the individual. The changes to the data form include adding two check boxes that will allow first-time respondents and repeat reviewers to complete the entire form or simply update contact information. This alleviates the need for a separate form, currently in use, to update reviewer contact information. Also, to promote electronic submission, all the fields were made ''fillable'' through the use of text or check boxes.

Copies of the information collection submission for OMB review may be accessed from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* or from the Department's Web site at *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 4550. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to the Internet address *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–16610 Filed 6–30–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Comment request.

SUMMARY: The Department of Education (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 30, 2011.

ADDRESSES: Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Please note that written comments received in response to this notice will be considered public records.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Information Management and Privacy Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 28, 2011.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.

Title of Collection: Annual Progress Report for the Access to Telework Program under the Rehabilitation Act of 1973, as Amended.

OMB Control Number: 1820–0687.

Agency Form Number(s): N/A.

Frequency of Responses: Annually.

Affected Public: State, Local, or Tribal Government, State Educational Agencies or Local Educational Agencies.

Total Estimated Number of Annual Responses: 19.

Total Estimated Number of Annual Burden Hours: 209.

Abstract: Nineteen states currently have Access to Telework programs that provide financial loans to individuals with disabilities for the purchase of computers and other equipment that support teleworking for an employer or self-employment on a full or part-time basis. These grantees are required to report annual data on their programs to the Rehabilitation Services Administration. This information collection provides a standard format for the submission of those annual performance reports and a follow-up survey to be administered to individuals who receive loans. The proposed instrument eliminates an entire section of optional information that is not required for submission by the Telework grantees, further reducing the burden from approximately 12.5 hours to 11 hours per state. Section C. Telework Optional Data Elements, which are not annual reporting requirements for the Telework grantees, has been proposed for removal from the current instrument. The information collected in this optional data section includes: 1. Types of Telework programs (partnership loans or revolving loans), 2. Interest Rates (lowest and highest interest rates established by policy), 3. Loan Amounts (lowest and highest loan amounts established by policy), 4. Repayment Terms (shortest and longest repayment terms established by policy), and Loan Guarantee Requirement, the percentage of the loans that must be repaid by the alternative financing program (AFP) to the lender in case of default as established by the agreement with the lender. Since the data reported under C. Telework Optional Data Elements of the current instrument is not required, grantees did not report this information uniformly across programs. If every grantee doesn't report in this section, then the data can't be reported in aggregate form. This optional section contains information about program features and descriptions that may or may not change on an annual basis. Since there is limited utility to the annual reporting of this optional information, the decision was made to further reduce the burden to all grantees by eliminating this section from the current instrument in the Management Information System.

Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 4657. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 2011–16614 Filed 6–30–11; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Secretary of Energy Advisory Board (SEAB). SEAB was reestablished pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) (the Act). This notice is provided in accordance with the Act.

DATES: Wednesday, July 20, 2011 8 a.m.–5 p.m.

ADDRESSES: U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Amy Bodette, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; telephone (202) 586–0383 or facsimile (202) 586–1441; e-mail: *seab@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Board was reestablished to provide advice and recommendations to the Secretary on the Department's basic and applied research, economic and national security policy, educational issues, operational issues and other activities as directed by the Secretary.

Purpose of the Meeting: The meeting will provide briefings to the Board and an opportunity for the subcommittees to report on their progress, to the parent Board. The Technology Transition Subcommittee will make recommendations to the parent Board.

Tentative Agenda: The meeting will start at 8 a.m. on July 20th and will serve as an update meeting for the Board. The tentative meeting agenda includes a welcome, opening remarks from the Secretary, reports on planned activities from subcommittees and an opportunity for public comment. The meeting will conclude at 5 p.m.

Public Participation: The meeting is open to the public. Individuals who would like to attend must RSVP to Amy Bodette no later than 5 p.m. on Monday, July 18, 2011 at *seab@hq.doe.gov.* Please provide your name, organization, citizenship and contact information. Anyone attending the meeting will be required to present government issued identification. Individuals and representatives of organizations who would like to offer comments and suggestions may do so at the end of the meeting on Wednesday, July 20, 2011. Approximately 30 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will not exceed 5 minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so beginning at 8 a.m. on July 20, 2011.

Those not able to attend the meeting or have insufficient time to address the Board are invited to send a written statement to Amy Bodette, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington DC 20585; e-mail to: *seab@hq.doe.gov.*

Minutes: The minutes of the meeting will be available on the SEAB Web site *http://www.energy.gov/SEAB* or by contacting Ms. Bodette. She may be reached at the postal address or e-mail address above.

Issued at Washington, DC, on June 28, 2011.

LaTanya Butler,

Acting Deputy Committee Management Officer.

[FR Doc. 2011–16590 Filed 6–30–11; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Availability of the Geothermal Technologies Program Blue Ribbon Panel Report and Request for Public Comment

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of availability and request for public comment.

SUMMARY: The Department of Energy's (DOE) Office of Energy Efficiency and Renewable Energy (EERE) Geothermal Technologies Program (the Program) assembled a geothermal Blue Ribbon Panel (the Panel) on March 22/23, 2011 in Albuquerque, New Mexico for a guided discussion on the future of geothermal energy in the United States and the role of the DOE Program. The Geothermal Blue Ribbon Panel Report captures the discussions and recommendations of the experts and can be accessed at: *http://geothermal.energy.gov/brp.*

DATES: Submit electronic or written comments on or before July 29, 2011.

ADDRESSES: Comments may be submitted by e-mail to: *DOE.Geothermal@ee.doe.gov.* Please include ''Geothermal Blue Ribbon Panel Report'' in the subject line. Please put the full body of your comments in the text of the e-mail and as an attachment. Please include your name, title, organization, postal address, telephone number, and e-mail address in the text of the message.

Comments may also be submitted by surface mail to: Department of Energy, Office of Energy Efficiency and Renewable Energy, JoAnn Milliken (6A–067), 1000 Independence Ave., SW., Washington, DC 20585.

Respondents are encouraged to submit comments electronically to ensure timely receipt. The Geothermal Blue Ribbon Panel Report can be accessed at: *http://geothermal.energy.gov/brp.*

FOR FURTHER INFORMATION CONTACT: JoAnn Milliken, Acting Geothermal Program Manager, at (202) 586–2480 or *joann.milliken@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: The majority of geothermal energy growth occurred prior to 1990. In recent years, the growth of geothermal capacity in the U.S. has lagged that of solar and wind energy. The purpose of the Blue Ribbon Panel meeting was to identify the obstacles to geothermal energy growth, discuss the appropriate role of DOE in enabling geothermal energy, and recommend priority research and development areas. The 15 panelists included experts from the geothermal and oil/gas industries, finance institutions, utilities, universities, and national laboratories.

This notice requests public comment on the recommendations and discussions captured in the Geothermal Blue Ribbon Panel Report.

Public Participation Policy

It is the policy of the Department to ensure that public participation is an integral and effective part of DOE activities, and that decisions are made with the benefit of significant public input and perspectives.

The Department recognizes the many benefits to be derived from public participation for both stakeholders and DOE. Public participation provides a means for DOE to gather a diverse collection of opinions, perspectives, and values from the broadest spectrum of the public, enabling the Department to make more informed decisions. Public participation benefits stakeholders by creating an opportunity to provide input on decisions that affect their communities and our nation.

Issued in Washington, DC, on June 14, 2011.

JoAnn Milliken,

Acting Program Manager, Geothermal Technologies Program, Energy Efficiency and Renewable Energy.

[FR Doc. 2011–16579 Filed 6–30–11; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–0595; FRL–9324–8]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Fuels and Fuel Additives: Detergent Gasoline (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document

announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before August 1, 2011.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2007–0595, to (1) EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jaimee Dong, Office of Transportation and Air Quality, (Mail Code: 6406J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9672; fax number: (202) 343–2802; e-mail address: *dong.jaimee@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On February 16, 2011 (76 *FR* 9013), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2007–0595, which is available for online viewing at *http://www.regulations.gov,* or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket is 202–566–1742.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: Regulation of Fuels and Fuel Additives: Detergent Gasoline (Renewal).

ICR numbers: EPA ICR No. 1655.07, OMB Control No. 2060–0275.

ICR Status: This ICR is scheduled to expire on June 30, 2011. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Gasoline combustion results in the formation of engine deposits that contribute to increased emissions. Detergent additives deter deposit formation. The Clean Air Act requires gasoline to contain a detergent additive. The regulations at 40 CFR part 80, subpart G specify certification requirements for manufacturers of detergent additives, recordkeeping and reporting requirements for blenders of detergents into gasoline or post-refinery component (any gasoline blending stock or any oxygenate which is blended with gasoline subsequent to the gasoline refining process), and recordkeeping and reporting requirements for manufacturers, transferors, or transferees of detergents, gasoline, or post-refinery component (PRC). These requirements ensure that (1) a detergent is effective before it is certified by EPA, (2) a certified detergent, at the minimum concentration necessary to be effective (known as the lowest additive concentration (LAC)), is blended into gasoline, and (3) only gasoline which contains a certified detergent at its LAC is delivered to the consumer. The EPA maintains a list of certified gasoline detergents, which is publicly available. As of April 2011 there were 423 certified detergents and 19 detergent manufacturers.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 3 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Manufacturers, transferors and transferees, and blenders into gasoline or post-refinery component of detergent additives; and detergent additive researchers.

Estimated Number of Respondents: 1354.

Frequency of Response: Once, occasionally annually.

Estimated Total Annual Hour Burden: 220,181.

Estimated Total Annual Cost: $18,854,168 including $335,040 annualized capital or O&M costs.

Changes in the Estimates: There is a decrease of 427 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to an estimated decrease in annual certification applications from 10 to 3.

Dated: June 21, 2011.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2011–16036 Filed 6–30–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9428–5; Docket ID No. EPA–HQ–ORD–2011–0051]

Draft Integrated Science Assessment for Lead

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of public comment period.

SUMMARY: EPA is announcing a two week extension of the public comment period for the first external review draft of a document titled, ''First External Review Draft Integrated Science Assessment for Lead'' (EPA/600/R–10/075A). The original **Federal Register** notice announcing the public comment period was published on May 6, 2011 (76 FR 26284). This assessment document was prepared by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development as part of the review of the National Ambient Air Quality Standards (NAAQS) for Lead.

DATES: The public comment period began May 6, 2011. This notice announces an extension of the deadline for public comment from July 5, 2011 to July 19, 2011. Comments must be received by July 19, 2011.

ADDRESSES: The ''First External Review Draft Integrated Science Assessment for Lead'' will be available primarily via the Web page under Recent Additions and Publications menus at *http://www.epa.gov/ncea.* A limited number of CD–ROM or paper copies will be available. Contact Ms. Debbie Wales by phone (919–541–4731), fax (919–541–5078), or e-mail (*wales.deborah@epa.gov*) to request either of these, and please provide your name, your mailing address, and the document title, ''First External Review Draft Integrated Science Assessment for Lead'' (EPA/600/R–10/075A) to facilitate processing of your request.

FOR FURTHER INFORMATION CONTACT: For technical information, contact Dr. Ellen Kirrane, NCEA; telephone: 919–541–1340; facsimile: 919–541–2985; or e-mail: *kirrane.ellen@epa.gov.*

Comments may be submitted electronically via *http://www.regulations.gov,* by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of **Federal Register** Notice (76 FR 26284). For information on submitting comments to the docket, please contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov.*

Dated: June 23, 2011.

Darrell A. Winner,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 2011–16624 Filed 6–30–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8997–7]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/.*

Weekly Receipt of Environmental Impact Statements Filed 06/20/2011 Through 6/24/2011 Pursuant to 40 CFR 1506.9

Notice:

In accordance with Section 309(a) of the Clean Air Act, EPA is required to make its comments on EISs issued by other Federal agencies public. Historically, EPA met this mandate by publishing weekly notices of availability of EPA comments, which includes a brief summary of EPA's comment letters, in the **Federal Register**. Since February 2008, EPA has included its comment letters on EISs on its Web site at: *http://www.epa.gov/compliance/nepa/eisdata.html.* Including the entire EIS comment letters on the Web site satisfies the Section 309(a) requirement to make EPA's comments on EISs available to the public. Accordingly, on March 31, 2010, EPA discontinued the publication of the notice of availability of EPA comments in the **Federal Register**.

EIS No. 20110199, Draft EIS, BLM, CA, West Chocolate Mountains Renewable Energy Evaluation Area, Evaluating Allocated Federal Mineral Estate (not including acquired lands) for Leasing, Testing, and Development of Geothermal Power, Imperial County, CA, *Comment Period Ends:* 09/29/2011, *Contact:* Joe Vieira 719–852–6213. This document is available on the Internet at: *http://www.blm.gov/ca/st/en/fo/elcentro/nepa/wcm.html.*

EIS No. 20110200, Final Supplement, TVA, TN, Sequoyah Nuclear Plant Units 1 and 2, License Renewal, Updated Information Resulting from Renewing Operating License, Application Renewal, Hamilton County, TN, *Review Period Ends:* 08/01/2011, *Contact:* Amy Henry 856–632–4045.

EIS No. 20110201, Draft EIS, BIA, CA, Los Coyotes Band of Cahuilla and Cupeno Indians Fee-To-Trust and Casino-Hotel Project, To Improve Long-Term Economic Development, Implementation, City of Barstow, San Bernardino County, CA, *Comment Period Ends:* 09/14/2011, *Contact:* John Rydzik 916–978–6051.

EIS No. 20110202, Final EIS, NOAA, 00, Amendment 11 to the Atlantic Mackerel, Squid, and Butterfish (MSB), Update Information MSB Essential Fish Habitat; Establish a Mackerel Recreational Allocation; Establish a Cap to Limit the At-Sea Processing of Mackerel, Fishery Management Plan (FMP), Establish an Atlantic Mackerel Limited Access Program, Implementation, Review Period Ends: 08/01/2011, *Contact:* Patricia A. Kurkul 978–281–9250.

EIS No. 20110203, Final EIS, NSF, 00, PROGRAMMATIC—Marine Seismic Research Funded by the National Science Foundation or Conducted by the U.S. Geological Survey, To Fund the Investigation of the Geology and Geophysics of the Seafloor by Collecting Seismic Reflection and Refraction Data, Across the World's Ocean, *Review Period Ends:* 08/01/2011, *Contact:* Holly Smith 703–292–8583.

EIS No. 20110204, Draft EIS, FRBSF, WA, 1015 Second Avenue Property, Involving Disposition of the Property Either Through Transfer, Donations, or Sale, Downtown Seattle, WA, *Comment Period Ends:* 08/15/2011, *Contact:* Robert Keller 415–974–2655. This document is available on the Internet at: *http://www.frbsf.org/news.*

EIS No. 20110205, Draft EIS, USFS, NV, Ely Westside Rangeland Project, Authorization of Livestock Grazing, To Improve the Health of the Land and To Protect Essential Ecosystem Functions and Values, Implementation, Humboldt-Toiyabe National Forest, Lincoln, Nye, and Pine Counties, NV, *Comment Period Ends:* 08/15/2011, *Contact:* Vernon Keller 775–355–5356.

EIS No. 20110206, Final EIS, FTA, MI, Woodward Avenue Light Rail Transit Project, Construction and Operation, Funding, City of Detroit, Wayne County, MI, *Review Period Ends:* 08/01/2011, *Contact:* Tricia Harr 202–366–0486.

EIS No. 20110207, Draft EIS, NOAA, 00, Generic—Annual Catch Limits/Accountability Measures Amendment for the Gulf of Mexico Fishery Management Council's Red Drum, Reef Fish, Shrimp, Coral and Coral

Reefs, Fishery Management Plans, Implementing the National Standard 1 Guidelines, *Comment Period Ends:* 08/15/2011, *Contact:* Roy E. Crabtree 727–824–5305.

EIS No. 20110208, Second Draft Supplement, BOEMRE, 00, Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sales: 2012 Central Planning Area Lease Sales: 216 and 222, Potential Changes to the Baseline Conditions, Offshore Marine Environment and Coastal Counties/Parishes of MS, LA, and AL, *Comment Period Ends:* 08/15/2011, *Contact:* Gary Goeke 504–736–3233.

EIS No. 20110209, Draft Supplement, USFWS, AL, Beach Club West and Gulf Highlands Condominiums Residential/Recreational Condominium Project, Incidental Take Permits for Construction and Occupancy, Consider Issuance of U.S. Army COE Section 10 and 404 Permits, Baldwin County, AL, *Comment Period Ends:* 08/15/2011, *Contact:* David Dell 404–679–7313.

Dated: June 28, 2011.

Cliff Rader,

Environmental Protection Specialist, Compliance Division, Office of Federal Activities.

[FR Doc. 2011–16585 Filed 6–30–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket# EPA–RO4–SFUND–2011–0557, FRL–9427–7]

Sikes Oil Service; Arcade, Jackson County, GA; Notice of Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of settlement.

SUMMARY: Under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency has entered into a settlement for reimbursement of past response costs concerning the Sikes Oil Service Superfund Site located in Arcade, Jackson County, Georgia for publication.

DATES: The Agency will consider public comments on the settlement until August 1, 2011. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

ADDRESSES: Copies of the settlement are available from Ms. Paula V. Painter. Submit your comments, identified by Docket ID No. EPA–RO4–SFUND–2011–0557 or Site name Sikes Oil Service Superfund Site by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *http://www.epa.gov/region4/waste/sf/enforce.htm.*
- *E-mail. Painter.Paula@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Paula V. Painter at 404/562–8887.

Dated: June 13, 2011.

Anita L. Davis,

Chief, Superfund Enforcement & Information Management Branch, Superfund Division.

[FR Doc. 2011–16631 Filed 6–30–11; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation Has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of financial institutions in liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing. This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992 issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation Web site at *http://www.fdic.gov/bank/individual/failed/banklist.html* or contact the Manager of Receivership Oversight in the appropriate service center.

Dated: June 27, 2011.

Federal Deposit Insurance Corporation.

Pamela Johnson,

Regulatory Editing Specialist.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10372	Mountain Heritage Bank	Clayton	GA	06/24/2011

[FR Doc. 2011–16533 Filed 6–30–11; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for a license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF)—Ocean Transportation Intermediary (OTI) pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR part 515). Notice is also hereby given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a license.

Interested persons may contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843, or by e-mail at *OTI@fmc.gov.*

Allto Business International Inc. (NVO & OFF), 8349 NW 68th Street, Miami, FL 33166. Officers: Sergio Bobadilla, President/Director/Secretary, (Qualifying Individual), Rangel Lopez, Vice President/Treasurer, Application Type: New NVO & OFF License.

Arabian Global Logistics Inc. dba Arabian Cargo International (OFF), 801 Dumont Street, #C, South Houston, TX 77578. Officers: Fakher

M. Nawar, President/Director, (Qualifying Individual), Karim F. Nawar, Treasurer/Secretary, Application Type: New OFF License.

ASC Miami, Corp. (NVO & OFF), 10775 NW 21st Street, #110, Miami, FL 33172. Officers: Maria D. Torres, President, (Qualifying Individual), Jose D. Salazar, Secretary, Application Type: Add NVO Service.

AV Logistics, L.L.C. (NVO & OFF), 350 Corporate Way, #250, Orange Park, FL 32073. Officers: Michael Bifulco, Vice President Operations, (Qualifying Individual), Michael Burton, President/Manager, Application Type: New NVO & OFF License.

BBC Freight Line Inc. dba ABC Depot Logistics (NVO), 7400 E. Slauson Avenue, Commerce, CA 90040. Officer: Douglas E. Garcia, Secretary, (Qualifying Individual), Fred Chen, President, Application Type: Trade Name Change.

Crowley Caribbean Logistics, LLC (NVO & OFF), Rd. 165, KM 2.4, Edif 13, Guaynabo, PR 00970. Officers: John G. Smith, OTI Compliance Officer/Manager, (Qualifying Individual), John P. Hourihan, Senior Vice President/Manager, Application Type: New NVO & OFF License.

D & J Cargo, Inc. (NVO & OFF), 1933 NW 21st Terrace, Miami, FL 33142. Officers: Oscar D. Matus, Operations Officer, (Qualifying Individual), Dennis A. Campos, President, Application Type: New NVO & OFF License.

F.H.L. Logistics, Inc. (NVO & OFF), 1354 NW 78th Avenue, Doral, FL 33126. Officers: Laura Leal-Ramos, Vice President, (Qualifying Individual), Jose L. Tabares, President, Application Type: New NVO & OFF License.

FPS Logistic (USA) Inc. (NVO), 879 W. 190th Street, #905, Gardena, CA 90248. Officers: Anna W. Liu, Vice President (Operations), (Qualifying Individual), Quincy H. Tan, President/CEO/CFO/Secretary, Application Type: Trade Name Change.

HYC Logistics, Inc. (NVO & OFF), 2600 Thousand Oaks Blvd., Suite 1350, Memphis, TN 38118. Officers: Tanya M. DePriest, Vice President Export Operations, (Qualifying Individual), Uri D. Silver, President, Application Type: QI Change.

ICT International Cargo Transport (USA) Inc. (NVO & OFF), 28922 Lorain Road, #100, North Olmsted, OH 44070. Officers: Suzanne M. Javorsky, Vice President, (Qualifying Individual), Janko Wille, President, Application Type: QI Change.

Latin American Exporters, Inc. dba Cargomax Worldwide Logistics (NVO), 1850 NW 84th Avenue, #100, Doral, FL 33126. Officers: Yessenia M. Litardo, Vice President, (Qualifying Individual), Felix F. Ferrer, President/Secretary, Application Type: New NVO License.

Leschaco, Inc. (NVO & OFF), One Evertrust Plaza, Suite 304, Jersey City, NJ 07302. Officers: Mark C. Malambri, President/CEO, (Qualifying Individual), Martin Pieper, Treasurer, Application Type: QI Change.

Midwest International Shipping, Inc. (OFF), 2540 Bradley Place, Chicago, IL 60618. Officers: Shlomo Rimer, Vice President/Treasurer, (Qualifying Individual), Ariel Hershkovich, President/Secretary, Application Type: New OFF License.

MSC Expeditor Inc. (NVO & OFF), 167–21 Porter Road, Suite #202, Jamaica, NJ 11434. Officer: Chang, Yu Chu, President/Secretary, (Qualifying Individual), Application Type: New NVO & OFF License.

North Star Container, LLC dba NS World Logistics (NVO), 7400 Metro Boulevard, Suite 300, Edina, MN 55439. Officers: Shawn D. Steen, Assistant Vice President, (Qualifying Individual), Application Type: Trade Name Change.

Omega Relocations Inc (NVO), 2741 W. 76th Street, Hialeah, FL 33016. Officers: Eyal Aviani, Vice President, (Qualifying Individual), Horacio G. Lacayo, President/Secretary, Application Type: New NVO License.

P2 Logistics, Inc (NVO & OFF), 17326 Edwards Road, #205, Cerritos, CA 90703. Officers: Michael Park, CEO, (Qualifying Individual), Phillip Choi, CFO, Application Type: New NVO & OFF License.

Port Alliance Logistics International, Inc. dba Port Alliance Logistics (Los Angeles) dba Port Alliance Logistics (New York) (NVO & OFF), 400 Garden City Plaza, Suite 309, Garden City, NY 11530. Officers: Shawn Mak, Treasurer, (Qualifying Individual), Huang-Yu Lin, President, Application Type: Add OFF Service.

Shinewell Logistics, Inc dba Shinyei Shipping (NVO), 1861 Western Way, Torrance, CA 90501. Officers: Hseanrus (Stephen) H. Lin, President/Vice President, (Qualifying Individual), Application Type: Trade Name Change.

Stella Maris International Trading, Inc. (NVO), 3825 Henderson Boulevard, Suite 100, Tampa, FL 33629. Officers: Fernando Perez, Vice President/Secretary, (Qualifying Individual), Nadya Ojeda-Perez, President/Treasurer, Application Type: New NVO License.

Toshiba Logistics America, Inc. (NVO & OFF), 9740 Irvine Blvd., Irvine, CA 92618. Officers: Katsuhiro Kume, Assistant Secretary, (Qualifying Individual), Takumi Murai, CEO/President, Application Type: QI Change.

Total Caribbean Logistics, LLC (NVO & OFF), 81 Kings Court, #14B, San Juan, PR 00911. Officers: Kurt W. Terhar, Sole Member, (Qualifying Individual), Application Type: New NVO & OFF License.

We International Inc (NVO & OFF), 6690 Amador Plaza Drive, #115, Dublin, CA 94568. Officers: Paul A. Slemmons, Vice President, (Qualifying Individual), Mingli Wu, Stockholder, Application Type: New NVO & OFF License.

Trans-Aero-Mar, Inc. (NVO & OFF), 8620 N.W. 70th Street, Miami, FL 33166. Officer: Luis G. Rangel, President, (Qualifying Individual), Application Type: Add OFF Service.

Widelane Global Logistics Ltd. (NVO), One Cross Island Plaza, 133–33 Brookville Blvd., Suite 108, Rosedale, NY 11422. Officer: William Poung, Pres/CFO/Sec/CEO/VP/Senior VP, (Qualifying Individual), Application Type: Name Change.

Wiz Freight Corp. (NVO), 8327 NW 68th Street, Miami, FL 33166. Officer: Renato F. Ferretti, President/Secretary/Treasurer, (Qualifying Individual), Application Type: New NVO License.

Xperts Logistics Inc. (NVO), 3407–B NW 72nd Avenue, Miami, FL 33122. Officers: Jerry Y. Lopez-Leon, President/Secretary/CEO, (Qualifying Individual), Application Type: New NVO License.

Dated: June 27, 2011.

Karen V. Gregory,

Secretary.

[FR Doc. 2011–16546 Filed 6–30–11; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Rescission of Order of Revocation

Notice is hereby given that the Order revoking the following licenses are being rescinded by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. Chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License Number: 019706N

Name: Safe Movers, Inc. dba Isaac's Relocation Service
Address: 181 Campanelli Parkway, Stoughton, MA 02072
Order Published: FR: 6/15/11 (Volume 76, No. 115, Pg. 34994)
License Number: 021442F
Name: Ferm Holdings, Inc.
Address: 3640 NW 115th Avenue, Miami, FL 33178
Order Published: FR: 6/02/11 (Volume 76, No. 106, Pg. 31964)
License Number: 022268NF
Name: USI–USA, Inc.
Address: 13030 Fellowship Way, Reno, NV 89511
Order Published: FR: 5/12/11 (Volume 76, No. 92, Pg. 27644)

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.
[FR Doc. 2011–16545 Filed 6–30–11; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Revocation

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. chapter 409) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515, effective on the corresponding date shown below:

License Number: 018449N.
Name: ABC Depot, Inc.
Address: 5690 Bandini Blvd., Bell, CA 90201.
Date Revoked: May 26, 2011.
Reason: Failed to maintain a valid bond.

License Number: 018848N.
Name: Wings Logistics U.S.A., Corp.
Address: 147–35 Farmers Blvd., Jamaica, NY 11434
Date Revoked: May 20, 2011.
Reason: Failed to maintain a valid bond.

License Number: 019232N.
Name: Universal Container Trade, Inc.
Address: 16228 McGill Road, La Mirada, CA 90638.
Date Revoked: May 28, 2011.
Reason: Failed to maintain a valid bond.

License Number: 020311F.
Name: Watership, Ltd. dba Transgroup International.
Address: 650 Atlanta South Parkway, Suite 100, Atlanta, GA 30349.
Date Revoked: May 29, 2011.
Reason: Failed to maintain a valid bond.

License Number: 020314F.
Name: Idaho Specialized Transportation, Inc. dba Transgroup International.
Address: 1287 Boeing Street, Boise, ID 83705.
Date Revoked: May 29, 2011.
Reason: Failed to maintain a valid bond.

License Number: 020538F.
Name: Ord Ico, LLC dba Transgroup International.
Address: 1400 Mittel Blvd., Suite A, Wood Dale, IL 60191.
Date Revoked: May 29, 2011.
Reason: Failed to maintain a valid bond.

License Number: 020544F.
Name: Trans Ico, LLC dba Transgroup International.
Address: 280 Wilson Avenue, Newark, NJ 07105.
Date Revoked: May 29, 2011.
Reason: Failed to maintain a valid bond.

License Number: 020312F.
Name: TBD Services, Inc. dba Transgroup International.
Address: 940 Aldrin Drive, Suite 110, Eagan, MN 55121.
Date Revoked: May 29, 2011.
Reason: Failed to maintain a valid bond.

License Number: 020540F.
Name: Jet Air Delivery, Inc. dba Transgroup International.
Address: 4980 Amelia Earhart Drive, Salt Lake City, UT 84116.
Date Revoked: May 29, 2011.
Reason: Failed to maintain a valid bond.

License Number: 020543F.
Name: Trans Lax LLC dba Transgroup International.
Address: 15901 Hawthorne Blvd., Suite 440, Los Angeles, CA 90260.
Date Revoked: May 29, 2011.
Reason: Failed to maintain a valid bond.

License Number: 021838F.
Name: Trans-Mia, LLC dba Transgroup International.
Address: 10300 NW., 19th Street, Bldg. 105, Miami, FL 33172.
Date Revoked: May 29, 2011.
Reason: Failed to maintain a valid bond.

License Number: 021920F.
Name: Trans Bos, LLC dba Transgroup International.
Address: 140 Eastern Avenue, Chelsea, MA 02150.
Date Revoked: May 29, 2011.
Reason: Failed to maintain a valid bond.

License Number: 021973F.
Name: Cargo Connections NC, LLC dba Transgroup International.
Address: 4119–G Rose Lake Drive, Charlotte, NC 28217.
Date Revoked: May 29, 2011.
Reason: Failed to maintain a valid bond.

License Number: 022540N.
Name: Quality One International Shipping Express, Corp.
Address: 3913 Dyre Avenue, Bronx, NY 10466.
Date Revoked: May 24, 2011.
Reason: Failed to maintain a valid bond.

License Number: 022745N.
Name: Leverex International Inc.
Address: 15 Corporate Place South, Suite 407, Piscataway, NJ 08854.
Date Revoked: May 24, 2011.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.
[FR Doc. 2011–16544 Filed 6–30–11; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 19, 2011.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Priam Capital Fund I, LP, Priam Capital Associates, LLC, and Howard Feinglass,* all in Wilmington, Delaware; to acquire voting shares of First Mariner Bancorp, and thereby indirectly acquire voting shares of First Mariner Bank, both in Baltimore, Maryland.

B. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs

Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *Teresa A. Grindstaff and Greg E. Allen, individually and as trustees of the William H. Cooper General Trust, and the William H. Cooper Marital Trust,* all in Farmington, Missouri; to acquire shares of First State Bancshares, Inc., and thereby indirectly acquire voting shares of First State Community Bank, both in Farmington, Missouri.

Board of Governors of the Federal Reserve System, June 28, 2011.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2011–16601 Filed 6–30–11; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–11–11BD]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

Fetal-Infant Mortality Review: Human Immunodeficiency Virus Prevention Methodology (FHPM)—New—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Despite advances in interventions to prevent mother-to-child transmission of Human Immunodeficiency Virus (HIV), including antiretroviral drugs, elective cesarean deliveries, and avoidance of breastfeeding, between 100 and 200 infants are perinatally infected with HIV in the United States each year. Many of these cases result from missed prevention opportunities, such as prenatal HIV testing, prenatal care, or antiretroviral prophylaxis.

The Fetal-Infant Mortality Review: Human Immunodeficiency Virus Prevention Methodology (FHPM) is designed to identify and address missed prevention opportunities at the community level. FHPM will be a CDC funded extramural project at 10 sites, conducted in partnership with the National Fetal and Infant Mortality Review Program, CityMatCH, and participating communities. Sites will be selected through a competitive application process, and funds will be administered through CityMatCH, which will also maintain the National FHPM Resource Center to provide training, technical assistance, and capacity building for selected sites. This will be the first program to approach perinatal HIV prevention using a community-based systems investigation and improvement strategy.

In order to address perinatal HIV transmission at the community level, FHPM has adapted the Fetal-Infant Mortality Review (FIMR) methodology. The FIMR methodology is an approach designed to lead to community-level improvements in infant health outcomes. The methodology consists of four steps: Data gathering, case review, community action, and changes in community systems.

FHPM has tailored this methodology to address perinatal HIV prevention. During FHPM's first stage, HIV-infected pregnant or recently postpartum women will be identified based on a pre-established case definition, and will be prioritized for community review. A maternal interview will then be conducted if consent is provided by the woman. Data collection can proceed using hospital records if there is no consent for an interview. After the data collection phase, a multidisciplinary case review team (CRT) will conduct a case review session.

Recommendations of the CRT will then be passed on to a Community Action Team (CAT), which will be a diverse, broad-based group of community leaders and representatives capable of defining and initiating changes in the local systems.

Each of the 10 FHPM sites will conduct 30 maternal interviews each year. De-identified FHPM data will be stored electronically at participating sites. CDC plans to launch the FIMR–HIV Data System (FHDS) in 2011, which will provide a centralized, web-based data system that can be utilized by all participating sites and partner organizations. CDC will not have access to any personal identifiable information that may be collected for the project.

Data collected by FHPM will primarily serve to inform and improve local health systems in order to prevent future perinatal HIV transmissions. This data will provide a clearer picture of the systems-level strengths and weaknesses in participating communities. There is no cost to participants other than their time. The total estimated annual burden hours are 450.

ESTIMATE OF ANNUALIZED BURDEN TABLE

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden response (in hours)
Pregnant or Recently Post-Partum HIV-infected Women.	FIMR/HIV Maternal Interview Form	300	1	1.5

Daniel L. Holcomb,

Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 2011–16554 Filed 6–30–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Office for State, Tribal, Local, and Territorial Support

In accordance with Presidential Executive Order No. 13175, November 6, 2000, and the Presidential Memorandum of November 5, 2009 and September 23, 2004, Consultation and Coordination with Indian Tribal Governments, CDC, OSTLTS announces the following meeting and Tribal Consultation Session:

Name: Tribal Advisory Committee (TAC) Meeting and 7th Biannual Tribal Consultation Session.

Times and Dates:

8:30 a.m.–5 p.m., August 22–23, 2011 (TAC Meeting).

8:30 a.m.–4 p.m., August 24, 2011 (7th Biannual Tribal Consultation Session).

Place: Suquamish Clearwater Casino Resort, 15347 Suquamish Way, NE., Suquamish, Washington 98392.

Status: All meetings are being hosted by the Northwest Portland Area Indian Health Board and are open to the public. August 23, 2011, has been reserved as a day to tour and interact with local Tribes. A special invitation has been extended to the Washington and Oregon American Indian Tribal Leaders, Washington and Oregon State Health Department Officials, and all American Indian/Alaska Native (AI/AN) Tribal leaders from across the nation.

Purpose: CDC released its Tribal Consultation Policy in October of 2005 with the primary purpose of providing guidance across the agency to work effectively with AI/AN tribes, communities, and organizations to enhance AI/AN access to CDC resources and programs. In November of 2006, an Agency Advisory Committee (the CDC/Agency for Toxic Substances and Disease Registry Tribal Advisory Committee—TAC) was established to provide a complementary venue wherein tribal representatives and CDC staff could exchange information about public health issues in Indian Country, identifying urgent public health needs in AI/AN communities, and discuss collaborative approaches to these issues and needs. Within the CDC Consultation Policy, it is stated that CDC will conduct government-to-government consultation with elected tribal officials or their designated representatives and confer with tribal and American Native organizations and AI/AN urban and rural communities before taking actions and or making decisions that affect them.

Consultation is an enhanced form of communication that emphasizes trust, respect, and shared responsibility. It is an open and free exchange of information and opinion among parties that leads to mutual understanding and comprehension. CDC believes that consultation is integral to a deliberative process that results in effective collaboration and informed decision making with the ultimate goal of reaching consensus on issues. Although formal responsibility for the agency's overall government-to-government consultation activities rests within the CDC Office of the Director (OD), other CDC Centers, Institutes, and Offices, leadership shall actively participate in TAC meetings and HHS-sponsored regional and national tribal consultation sessions as frequently as possible.

Matters to be Discussed: The TAC will convene their advisory committee meeting with discussions and presentations from various CDC senior leaderships on activities and areas identified by TAC members and other tribal leaders as priority public health issues. The Biannual Tribal Consultation Session will engage CDC Senior leadership from the CDC OD and various CDC Centers, Institutes and Offices, including the Financial Management Office, the Office of the Associate Director of Communications, OSTLTS, the National Center for Environmental Health and the Agency for Toxic Substances and Disease Registry, the National Center for Chronic Disease Prevention and Health Promotion, as well as others. Opportunities will be provided during the consultation session for tribal testimony. Tribal Leaders are encouraged to submit written testimony by close of business on August 5, 2011, to the contact person listed below.

It may be necessary to limit the time of each presenter due to the availability of time.

The agenda is subject to change as priorities dictate.

Information about TAC and CDC's Tribal Consultation Policy and previous meetings may be referenced on the following Web link: *http://www.cdc.gov/ostlts/tribal_public_health/announcements.html.*

Contact Person for more Information: Kimberly Cantrell, Public Health Advisor, Tribal Support, OSTLTS, CDC, 1600 Clifton Road, NE., MS K–70, Atlanta, Georgia 30333, telephone (404) 498–0411, e-mail: *KLW6@cdc.gov.*

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry.

Dated: June 24, 2011.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2011–16558 Filed 6–30–11; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10398, CMS–10399, CMS–10137, and CMS–10237]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Generic Clearance for Medicaid and CHIP State Plan, Waiver, and Program Submissions; *Use:* CMS is requesting a generic PRA clearance for a body of forms necessary to conduct ongoing business with State partners in the implementation of Medicaid and the Children's Health Insurance Program (CHIP). The specific forms have not yet been developed but will be developed over the 3-year approval period. The types of forms to be produced in this collection include State plan amendment templates, waiver and demonstration templates, and reporting templates. The development of streamlined submission forms is critical for States to implement timely health reform initiatives in Medicaid and CHIP state plans, demonstrations, and waivers, including legislative requirements enacted by the Affordable Care Act. The development of streamlined submissions forms enhances the collaboration and partnership between States and CMS by documenting CMS policy for States to use as they are developing program changes. Streamlined forms improve efficiency of administration by creating

a common and user-friendly understanding of the information needed by CMS to quickly process requests for State plan amendments, waivers, and demonstration, as well as ongoing reporting; *Form Number:* CMS–10398 (OMB # 0938–NEW); *Frequency:* Occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 1120; *Total Annual Hours:* 28,747. (For policy questions regarding this collection contact Candice Payne at 410–786–4453. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Analysis of Transportation Barriers to Utilization of Medicare Services by American Indian and Alaska Native Medicare Beneficiaries; *Use:* The purpose of the proposed study is to identify and analyze transportation barriers associated with the utilization of Medicare services by American Indian and Alaska Native (AI/AN) beneficiaries, to identify and analyze the health outcomes resulting from those barriers, and ultimately to identify potential solutions that could help mitigate the problem and produce meaningful improvements in health care use and health outcomes for this population. Specifically, the information that will be collected through the use of instruments and the study developed under the Analysis of Transportation Barriers to Utilization of Medicare Services by American Indian and Alaska Native Medicare Beneficiaries Project has not been collected or evaluated previously by any agency or individual, so data on the extent of transportation barriers for rural AI/AN beneficiaries to Medicare services by AI/AN Medicare beneficiaries are not available except from the proposed data collection activity.

The information gathered as part of the project—through the use of survey, interview, and focus group instruments—will be used by CMS to identify transportation barriers to Medicare services for AI/AN Medicare beneficiaries. It will provide the first ever complete evaluation of transportation barriers to health care for this population.; *Form Number:* CMS–10399 (OMB # 0938–NEW); *Frequency:* Occasionally; *Affected Public:* Individuals and Households, Private Sector; *Number of Respondents:* 3,418; *Total Annual Responses:* 3,418; *Total Annual Hours:* 2,544. (For policy questions regarding this collection contact Roger Goodacre at 410–786–3209. For all other issues call 410–786–1326.)

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Application for Prescription Drug Plans (PDP); Application for Medicare Advantage Prescription Drug (MA–PD); Application for Cost Plans to Offer Qualified Prescription Drug Coverage; Application for Employer Group Waiver Plans to Offer Prescription Drug Coverage; Service Area Expansion Application for Prescription Drug Coverage; *Use:* The Medicare Prescription Drug Benefit program was established by section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) and is codified in section 1860D of the Social Security Act (the Act). Section 101 of the MMA amended Title XVIII of the Social Security Act by redesignating Part D as Part E and inserting a new Part D, which establishes the voluntary Prescription Drug Benefit Program (''Part D''). The MMA was amended on July 15, 2008 by the enactment of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA), on March 23, 2010 by the enactment of the Patient Protection and Affordable Care Act and on March 30, 2010 by the enactment the Health Care and Education Reconciliation Act of 2010 (collectively the Affordable Care Act).

Coverage for the prescription drug benefit is provided through contracted prescription drug plans (PDPs) or through Medicare Advantage (MA) plans that offer integrated prescription drug and health care coverage (MA–PD plans). Cost Plans that are regulated under Section 1876 of the Social Security Act, and Employer Group Waiver Plans (EGWP) may also provide a Part D benefit. Organizations wishing to provide services under the Prescription Drug Benefit Program must complete an application, negotiate rates, and receive final approval from CMS. Existing Part D Sponsors may also expand their contracted service area by completing the Service Area Expansion (SAE) application.

Effective January 1, 2006, the Part D program established an optional prescription drug benefit for individuals who are entitled to Medicare Part A or enrolled in Part B. In general, coverage for the prescription drug benefit is provided through PDPs that offer drug-only coverage, or through MA organizations that offer integrated prescription drug and health care coverage (MA–PD plans). PDPs must offer a basic drug benefit. Medicare Advantage Coordinated Care Plans (MA–CCPs) must offer either a basic benefit or may offer broader coverage for no additional cost. Medicare Advantage Private Fee for Service Plans (MA–PFFS) may choose to offer a Part D benefit. Cost Plans that are regulated under Section 1876 of the Social Security Act, and Employer Group Plans may also provide a Part D benefit. If any of the contracting organizations meet basic requirements, they may also offer supplemental benefits through enhanced alternative coverage for an additional premium.

Applicants may offer either a PDP or MA–PD plan with a service area covering the nation (i.e., offering a plan in every region) or covering a limited number of regions. MA–PD and Cost Plan applicants may offer local plans. There are 34 PDP regions and 26 MA regions in which PDPs or regional MA–PDs may be offered respectively. The MMA requires that each region have at least two Medicare prescription drug plans from which to choose, and at least one of those must be a PDP. Requirements for contracting with Part D Sponsors are defined in Part 423 of 42 CFR.

This clearance request is for the information collected to ensure applicant compliance with CMS requirements and to gather data used to support determination of contract awards; *Form Number:* CMS–10137 (OMB # 0938–0936); *Frequency:* Yearly; *Affected Public:* Privates Sector; *Number of Respondents:* 178; *Total Annual Responses:* 178; *Total Annual Hours:* 2,322. (For policy questions regarding this collection contact Linda Anders at 410–786–0459. For all other issues call 410–786–1326.)

4. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Part C Medicare Advantage and 1876 Cost Plan Expansion Application; *Use:* Collection of this information is mandated in Part C of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) in Subpart K of 42 CRF 422 entitled ''*Contracts with Medicare Advantage Organizations.''* In addition, the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) amended titles XVII and XIX of the Social Security Act to improve the Medicare program.

In general, coverage for the prescription drug benefit is provided through prescription drug plans (PDPs) that offer drug-only coverage or through Medicare Advantage (MA) organizations that offer integrated prescription drug and health care products (MA–PD

plans). PDPs must offer a basic drug benefit. Medicare Advantage Coordinated Care Plans (MA–CCPs) either must offer a basic benefit or may offer broader coverage for no additional cost. Medicare Advantage Private Fee for Service Plans (MA–PFFS) may choose to offer enrollees a Part D benefit. Employer Group Plans may also provide Part D benefits. If any of the contracting organizations meet basic requirements, they may also offer supplemental benefits through enhanced alternative coverage for an additional premium.

Organizations wishing to provide healthcare services under MA and/or MA–PD plans must complete an application, file a bid, and receive final approval from CMS. Existing MA plans may request to expand their contracted service area by completing the Service Area Expansion (SAE) application. Applicants may offer a local MA plan in a county, a portion of a county (i.e., a partial county) or multiple counties. Applicants may offer a MA regional plan in one or more of the 26 MA regions.

This clearance request is for the information collected to ensure applicant compliance with CMS requirements and to gather data used to support determination of contract awards. The information will be collected under the solicitation of Part C application from MA, EGWP Plan, and Cost Plan applicants. The collection information will be used by CMS to: (1) Ensure that applicants meet CMS requirements, (2) support the determination of contract awards. Participation in all Programs is voluntary in nature. Only organizations that are interested in participating in the program will respond to the solicitation. MA–PDs that voluntarily participate in the Part C program must submit a Part D application and successful bid. *Form Number:* CMS–10237 (OMB # 0938–0935); *Frequency:* Yearly; *Affected Public:* Private Sector; *Number of Respondents:* 378; *Total Annual Responses:* 378; *Total Annual Hours:* 13,296. (For policy questions regarding this collection contact Letticia Ramsey at 410–786–5262. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site at *http://www.cms.gov/PaperworkReductionActof1995/PRAL/list.asp#TopOfPage* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office at 410–786–1326.

In commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by *August 30, 2011:*

1. Electronically. You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. By regular mail. You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, *Attention:* Document Identifier/OMB Control Number, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: June 28, 2011.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2011–16600 Filed 6–30–11; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–2540–10 and CMS–10385]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Skilled Nursing Facility and Skilled Nursing Facility Health Care Complex Cost Report. *Use:* Form CMS 2540–10 is used by Skilled Nursing Facilities (SNFs) and Skilled Nursing Facility Complexes participating in the Medicare program to report the health care costs to determine the amount of reimbursable costs for services rendered to Medicare beneficiaries. It is required under sections 1815(a), 1833(e) and 1861(v)(1)(A) of the Social Security Act (42 U.S.C. 1395g) to submit annual information to achieve settlement of costs for health care services rendered to Medicare beneficiaries. The revision is due to new reporting requirements as mandated by the Patient Protection and Affordability Act section 6104. Section 6104(1) of Public Law 111–148 amended § 1888(f) of the Social Security Act (''Reporting of Direct Care Expenditures''), by requiring that SNFs separately report expenditures for wages and benefits for direct care staff (registered nurses, licensed professional nurses, certified nurse assistants, and other medical and therapy staff). In implementing these changes Worksheet S–3, part V, was added. With the addition of this worksheet the average recordkeeping time for each provider will be increased by 5 hours and the average reporting time by 1 hour. *Form Number:* CMS–2540–10 (OMB#: 0938–0463); *Frequency:* Yearly; *Affected Public:* Private Sector; Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 15,071; *Total Annual Responses:* 15,071; *Total Annual Hours:* 3,171,602 (For policy questions regarding this collection contact Amelia Citerone. at 410–786–3901. For all other issues call 410–786–1326.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Expedited Checklist: Medicaid Eligibility & Enrollment Systems—Advance Planning Document (E&E–APD); *Use:* Under sections 1903(a)(3)(A)(i) and 1903(a)(3)(B) of the Social Security Act, CMS has issued new standards and conditions that must be met by States for Medicaid technology investments (including traditional claims processing systems, as well as eligibility systems) to be eligible for enhanced match funding. The Checklist will be submitted by States to the E&E APD

National Coordinator for review and coordination in the Eligibility/ Enrollment Systems APD approval assignment. The information requested on the Checklist will be used to determine and approve enhanced FFP to States and to determine how States are complying with the seven standards and conditions; *Form Number:* CMS–10385 (OMB#: 0938–1125); *Frequency:* Occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 168; *Total Annual Hours:* 204. (For policy questions regarding this collection contact Richard Friedman at 410–786–4451. For all other issues call 410–786–1326.)

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.cms.hhs.gov/ PaperworkReductionActof1995,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB desk officer at the address below, no later than 5 p.m. on *August 1, 2011.*

OMB, Office of Information and Regulatory Affairs, *Attention:* CMS Desk Officer, *Fax Number:* (202) 395–6974, *E-mail: OIRA_submission@omb.eop.gov.*

Dated: June 28, 2011.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2011–16599 Filed 6–30–11; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

President's Committee for People With Intellectual Disabilities; Notice of Committee Meeting via Conference Call

AGENCY: President's Committee for People with Intellectual Disabilities (PCPID), HHS.

ACTION: Notice of committee meeting via conference call.

DATES: Tuesday, July 19, 2011, from 1 p.m. to 2:30 p.m. EST. This meeting, to be held via audio conference call, is open to the public.

Details for accessing the full Committee Conference Call are cited below: Toll Free Dial-In Number: 800–779–1436. Pass Code: PCPID.

Individuals who will need accommodations for a disability in order to participate in the PCPID Meeting via audio conferencing (assistive listening devices, materials in alternative format such as large print or Braille) should notify Genevieve Swift, PCPID Executive Administrative Assistant, at *Edith.Swift@acf.hhs.gov,* or by telephone at 202–619–0634, no later than Tuesday, July 12, 2011. PCPID will attempt to meet requests for accommodations made after that date, but cannot guarantee ability to grant requests received after this deadline.

Agenda: Committee Members will discuss the potential topics, themes, and trends for the PCPID 2011 Annual Report to the President.

Additional Information: For further information, please contact Laverdia Taylor Roach, President's Committee for People with Intellectual Disabilities, The Aerospace Center, Second Floor West, 370 L'Enfant Promenade, SW., Washington, DC 20447. Telephone: 202–619–0634. Fax: 202–205–9519.

E-mail: *LRoach@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: PCPID acts in an advisory capacity to the President and the Secretary of Health and Human Services, through the Administration on Developmental Disabilities, on a broad range of topics relating to programs, services and supports for persons with intellectual disabilities. The PCPID Executive Order stipulates that the Committee shall: (1) Provide such advice concerning intellectual disabilities as the President or the Secretary of Health and Human Services may request; and (2) provide advice to the President concerning the following for people with intellectual disabilities: (A) Expansion of educational opportunities; (B) promotion of homeownership; (C) assurance of workplace integration; (D) improvement of transportation options; (E) expansion of full access to community living; and (F) increasing access to assistive and universally designed technologies.

Dated: June 27, 2011.

Laverdia Taylor Roach,

PCPID.

[FR Doc. 2011–16604 Filed 6–30–11; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0417]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Experimental Study of Format Variations in the Brief Summary of Direct-to-Consumer Print Advertisements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by August 1, 2011.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or e-mailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–New and title, ''Experimental Study of Format Variations in the Brief Summary of Direct-to-Consumer Print Advertisements.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, 301–796–3792, *Elizabeth.Berbakos@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Experimental Study of Format Variations in the Brief Summary of Direct-to-Consumer Print Advertisements—(OMB Control Number 0910–New)

Section 502(n) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(n)) specifies that ads for prescription drugs and biological products must provide a true statement of information ''in brief summary''

about the advertised product's ''side effects, contraindications, and effectiveness.'' The prescription drug advertising regulations (§ 202.1(e)(3)(iii) (21 CFR 202.1(e)(3)(iii))) specify that the information about risks must include each specific side effect and contraindication from the advertised drug's FDA-approved labeling, including the Warnings, Precautions, Adverse Reactions, and other relevant sections. Some of the current approaches to fulfilling the brief summary requirement, while adequate from a regulatory perspective, result in ads that may be difficult to read and understand when used in consumer-directed promotion.

In recent years, FDA has become concerned about the adequacy of the brief summary in direct-to-consumer (DTC) print advertisements for prescription drugs. Because the regulations do not specify how to address each risk, sponsors can use discretion in fulfilling the brief summary requirement under § 202.1(e)(3)(iii). Frequently, sponsors print in small type, verbatim, the risk-related sections of the approved product labeling (also called the package insert, professional labeling, prescribing information, and direction circular). This labeling is written for health professionals, using medical terminology. While adequate to fulfill the brief summary requirement for print advertisements, this method may not be the most ideal. Research has shown that while many consumers will make the effort to read the brief summary in prescription drug print advertisements if they are especially interested in the drug, as a general rule consumers typically read little or none of the brief summary information (Ref. 1). Health practitioners themselves have indicated they often have difficulty finding information they actively seek in package inserts (see 65 FR 81082, December 22, 2000, for a discussion of studies supporting the use of a highlights section in physician labeling). There may be other ways to fulfill this requirement that improve consumers' ability to find and comprehend the information in this important document.

There is evidence suggesting that both information content and the format in which it is presented will impact comprehension. For instance, research with the format of over-the-counter (OTC) drug labels (Refs. 2 and 3), the nutrition facts label (Ref. 4), and other information formats (Refs. 5 to 7) demonstrates that information presented with section headings, graphics (such as bullets), and other design elements is more easily read than information presented in paragraph format.

Research conducted by FDA and others has examined the content and format of the brief summary specifically. For instance, FDA conducted a series of relevant studies (OMB control numbers 0910–0591 and 0910–0611). Schwartz, Woloshin, and Welch have compared one format for adding quantitative and qualitative benefit and risk information to the brief summary (Ref. 8). Specifically, Schwartz *et al.* designed a prescription drug facts box similar in format to the nutrition facts panel and OTC drug facts panel. The box contains a number of elements, including qualitative and quantitative (both absolute frequency and absolute difference) information about benefits and risks. This study showed that consumers who were provided efficacy information in a prescription drug facts box were more likely to correctly choose the product with the higher efficacy than consumers who saw the brief summary using medical language from the prescribing information. However, it is unclear which elements of the drug facts box are necessary to improve consumer understanding. For instance, it is not known whether simply adding efficacy rate information to a consumer-friendly brief summary would be sufficient to enable consumers to understand a product's efficacy or whether qualitative summations are necessary as well.

The current study will add to previous research by systematically examining these different elements to determine whether and how to add qualitative and quantitative benefit and risk information to the brief summary. The results of this study will inform FDA of the usefulness and parameters of various format and content options for the brief summary.

Design Overview: This study will be conducted in two concurrent parts; one examining variations on the benefit information presented in DTC print advertisements and the other examining variations on the risk information presented in DTC print advertisements. The factors studied will be the type of information (*i.e.,* the addition of quantitative and qualitative information in a box format) and the level of efficacy or risk. We will vary the level of efficacy and risk such that the largest effect is noticeably different from the placebo, whereas the smallest effect is minimally different from the placebo. These factors will be combined in a factorial design as follows:

TABLE 1—PROPOSED DESIGN (4x5 + 2)

Information type	Efficacy level				
	Smallest effect	Smaller effect	Mid-size effect	Larger effect	Largest effect
Absolute Frequency	81% vs. 82%	61% vs. 82%	41% vs. 82%	21% vs. 82%	1% vs. 82%.
Absolute Frequency + Qualitative Label.	Fewer 81% vs. 82%	Fewer 61% vs. 82%	Fewer 41% vs. 82%	Fewer 21% vs. 82%	Fewer 1% vs. 82%.
Absolute Difference + Qualitative Label.	Fewer (1%)	Fewer (21%)	Fewer (41%)	Fewer (61%)	Fewer (81%).
Absolute Frequency + Absolute Difference + Qualitative Label.	Fewer (1%) 81% vs. 82%.	Fewer (21%) 61% vs. 82%.	Fewer (41%) 41% vs. 82%.	Fewer (61%) 21% vs. 82%.	Fewer (81%) 1% vs. 82%.

Note: Two other cells will be tested: (1) No information and (2) Qualitative label only (fewer). This design (22 cells) will also be used to test risk information (for a total of 44 cells). The specific numbers in the table are placeholders only. Qualitative label example: ''Fewer people taking drug X had disease/symptom Y.''

The test product will be for the treatment of a high prevalence medical condition and modeled on an actual drug used to treat that condition. Participants will be consumers who have been diagnosed with the medical condition of interest. They will be randomly assigned to read one ad version. After reading the ad, participants will answer a series of questions about the drug. We will test how the information type affects

perceived efficacy, perceived risk, behavioral intention, and accurate understanding of the benefit and risk information.

Interviews are expected to last no more than 20 minutes. A total of 11,750 participants will be involved in the study. This will be a one-time (rather than annual) collection of information.

In the **Federal Register** of August 31, 2010 (75 FR 53312), FDA published a 60-day notice requesting public comment on the proposed collection of information. Four responses were received, each of which included several comments.

I. Study Design

(Comment 1) Several suggestions related to participant demographics, measuring health literacy, and determining what our primary research questions are. One question related to the test DTC advertisements to be used in the study.

(Response) We agree that the study design should include the variables of age, education, ethnicity, and race; these are included in the questionnaire. We will ask whether participants can read, understand, and speak English.

We will measure subjective health literacy and the related concept of numeracy, which is relevant for this research as we are studying the comprehension of quantitative information. To clarify, we will not limit our sample to those who are currently being treated with a prescription drug for the condition being assessed; however, the questionnaire includes questions about prescription drug use.

Regarding the primary research questions, as stated in the 60-day notice, the current study will add to previous research by systematically examining the different elements in the drug facts box tested in previous research (Ref. 8) to determine whether and how to add qualitative and quantitative benefit and risk information to the brief summary. Specifically, we will test whether the inclusion of a qualitative label and/or the inclusion of quantitative information affects consumers' understanding of the information and their perceptions of the product.

We have contracted with an organization that produces realistic ads and stimuli to ensure that we will show respondents realistic materials.

(Comment 2) This comment states that there was not enough detail in the 60-day **Federal Register** notice, such as no description of the criteria for determining the amount and type of risk and benefit information to provide in the box format. Another question noted that qualitative terms depend on many factors. This comment also recommends that we consider implementing a cross-over study design to address interpatient variability. This comment suggested considering caregivers and consumers who do not have the medical condition treated by the drug. The final question in this comment asked how the tools were qualified or validated for their intended use.

(Response) The questionnaire, which has information about how questions will be asked and how behavioral intention will be assessed, was available upon request during the first comment period and will continue to be available during the second comment period. Information about how risk information will be portrayed, what statistical analyses will be performed, subject recruitment, and pretest content is addressed in this document.

We agree that a major challenge of the drug facts box format is deciding the amount and content of risk information to include; however, this type of study cannot address this issue. To replicate and extend past research, we will use the drug facts box from a previous study (Ref. 8) with slight modifications to the risk information (*e.g.,* the addition of a serious risk, different rates of side effects in the placebo and active drug groups).

We agree that qualitative terms depend on many factors; however, this study does not address the feasibility of creating qualitative terms but rather tests whether qualitative terms affect consumer comprehension. As requested, we will note this in our conclusions.

Conducting a cross-over design would significantly increase study length, and repeated exposure to the same stimuli with minor changes may affect participants' responses. We have conducted power analyses and believe we can find interpretable results without conducting a cross-over design.

To ensure that our participants are motivated to consider the information presented in the study and to conserve resources, we will limit our sample to people who have the medical condition of interest.

Cognitive testing will be used to test questionnaire items prior to their use, and similar items have been used in our previous studies. The items have face validity, and several are drawn from well-tested items used in the psychology literature (for example, behavioral intentions; Ref. 9). Finally, we will pretest the study manipulations.

(Comment 3) This comment included three statements about the details of the proposed study. First, the comment questioned why we chose to test percents and frequencies and not relative differences in this study. Second, this comment pointed out that the differences in the stimuli should be stated as percentage points, not as percentages. Third, the comment asks whether the risk and benefit information will be presented in the same mathematical expression and whether they will be presented independently.

(Response) We focus on percents and frequencies because we are replicating and extending previous research on a drug facts box (Ref. 8), which included percents and frequencies but not relative differences. The study found that the drug facts box outperformed a traditional brief summary. The drug facts box tested had several elements that differed from the traditional brief summary, including percents, frequencies (*i.e.,* XX/100), and qualitative labels. From these results, it is not possible to tell which elements of the drug facts box were responsible for the effects found. This study aims to test systematically the elements of the drug facts box to determine which, if any, improves consumer comprehension.

We will change percentages to percentage points in our stimuli.

To clarify, when participants see benefit information in a certain information type (or mathematical expression, for example, percents), they will also see risk information in that same information type (for example, percents). However, the efficacy level (from smallest to largest effect) will be manipulated in one design, and the risk level (from smallest to largest effect) will be manipulated in a separate design.

(Comment 4) The comment suggested that we redesign the study such that participants would view the study materials and then answer questions about the materials only after consulting with a physician. This comment lists a number of practical issues surrounding how to create drug facts boxes and notes that this study will provide limited practical information on how to format the brief summary for drugs with multiple indication, multiple studies, or multiple outcomes. Another recommendation from the comment is to include conditions that test relative difference. The comment suggests eliminating the ''largest effect'' cells.

(Response) We cannot ask participants to incur the financial and personal (time) cost of visiting a doctor to discuss a treatment for the purposes of research. This is not feasible or ethical. We cannot ethically ask them to go to their doctor to discuss a fictitious drug (nor would the doctor be able to discuss a fictitious drug with them), and

we cannot ethically recommend a real product for them to discuss with their doctor. Aside from the feasibility and ethical issues, this is an unnecessary step to answer our research questions about participants' comprehension of a widely disseminated written form of information. Moreover, the assumption behind this recommendation, that physician consultations are the ''context in which prescription drug advertisements are actually used,'' is questionable. DTC advertising does not exist solely in the confines of a doctor's office; rather, DTC advertising targets consumers outside of a doctor's office, with the goal of prompting consumers to ask their physicians about the product. Therefore, clear communication of risks and benefits is needed for consumers before a consultation with a physician.

We agree that there are several practical issues surrounding the utility of the drug facts box; however, these issues are outside the scope of the proposed study. This study does not address how information would be chosen for inclusion in drug facts boxes but rather whether and how consumers can understand the information presented. As stated in the response to comment 7, our first step will be to study a simple version of the drug facts box, with one indication.

We agree that relative difference is an interesting way to present quantitative information and are currently studying this presentation in another study (Refs. 10 and 11). However, as noted in the response to comment 3, in this study we are systematically testing the elements of the drug facts box presented in past research (Ref. 8) to determine which, if any, improves consumer comprehension.

We agree that these ''largest effect'' cells may be unrealistic and plan to use pretests to determine the number of levels and the content of the levels (*e.g.,* the differences used) to be included in the main study.

II. Publication of the Study

(Comment 5) This comment requested that FDA provide clarity on the timing and strategy for the conduct of this study with respect to other planned studies.

The comment recommends that FDA publish findings from this study and previous studies on the Division of Drug Marketing, Advertising, and Communications (DDMAC) Web page (Ref. 12).

(Response) To clarify, this study will begin after two related studies (Refs. 10 and 11) have been conducted. The results from these studies may inform the execution of this study. The study will not be superseded by related research results, as none of the other research examines the drug facts box format for the brief summary.

We agree and have taken steps to publish reports from our previous research on the DDMAC Web page (Ref. 12). When the current project is concluded, we will post the findings on the DDMAC Web page as well.

(Comment 6) Much of this comment focused on previous research. First, this comment requests that we disclose the results of previous research. Second, this comment recommends that we wait to begin new studies until results of previous research have been publicly reported.

(Response) As stated in the response to comment 5, we agree and have taken steps to publish findings from our previous research on the DDMAC Web page (ref. 12). Unfortunately, the lengthy research process does not allow us to comply with the second request. To continue having an active research program, we must submit new proposals while previous projects are ongoing. As stated in response to comment 5, as research projects develop, we will take results of previous research in account.

III. Product Labeling

(Comment 7) A comment noted that product labeling is multifaceted and recommended that conclusions should be flexible to address these wide variations in product attributes. Another suggestion was to consider a label format that includes multiple endpoints.

(Response) We agree that product labeling is multifaceted and will tailor our conclusions to acknowledge that we tested one simple version of the drug facts box.

As a first step, we plan to study a simple version of the drug facts box, with one indication. If consumers cannot understand the information in a drug facts box with one indication, they are not likely to understand the information in the drug facts box with multiple indications. In addition, testing an ad with one endpoint is realistic as drug ads often promote only one indication even if a drug has multiple indications.

(Comment 8) Another comment suggested that, along with testing the qualitative label, ''fewer people taking Drug X had symptom Y,'' we should also test the qualitative label, ''more people taking Drug X received effective relief from symptom Y.''

(Response) Unfortunately, we do not have the resources to test multiple qualitative labels in this study; however, we will test the qualitative label suggested by the comment in place of our original language.

IV. Revised Study Design

This study will be conducted in two concurrent parts; one examining variations on the benefit information presented in DTC print advertisements and the other examining variations on the risk information presented in DTC print advertisements. The factors studied will be the type of information (*i.e.,* the addition of quantitative and qualitative information in a box format) and the level of efficacy or risk. We will vary the level of efficacy and risk such that the largest effect is noticeably different from the placebo, whereas the smallest effect is minimally different from the placebo. We plan to use pretests to determine the number of levels and the content of the levels (*e.g.,* the differences used) to be included in the main study. We will also pretest whether participants should have access to the ad while completing the questionnaire. The following design includes the maximum number of levels we would include. These factors will be combined in a factorial design as follows:

TABLE 2—BENEFIT DESIGN (4 × 5 + 2)

Information type	Efficacy level				
	Smallest effect	Smaller effect	Mid-size effect	Larger effect	Largest effect
(1) Absolute Frequency.	19% vs. 18%	39% vs. 18%	59% vs. 18%	79% vs. 18%	99% vs. 18%.
(2) Absolute Frequency + Qualitative Label.	More 19% vs. 18% ...	More 39% vs. 18% ...	More 59% vs. 18% ...	More 79% vs. 18% ...	More 99% vs. 18%.

TABLE 2—BENEFIT DESIGN (4 × 5 + 2)—Continued

Information type	Efficacy level				
	Smallest effect	Smaller effect	Mid-size effect	Larger effect	Largest effect
(3) Absolute Difference + Qualitative Label.	More (1 percentage point).	More (21 percentage points).	More (41 percentage points).	More (61 percentage points).	More (81 percentage points).
(4) Absolute Frequency + Absolute Difference + Qualitative Label.	More (1 percentage point) 19% vs. 18%.	More (21 percentage points) 39% vs. 18%.	More (41 percentage points) 59% vs. 18%.	More (61 percentage points) 79% vs. 18%.	More (81 percentage points) 99% vs. 18%.

Note: Qualitative label example: ''More people taking drug X had heartburn relief.'' There are two additional conditions: a no information condition and a qualitative label only (More) condition.

TABLE 3—RISK DESIGN (4 × 5 + 2)

Information type	Risk level				
	Smallest effect	Smaller effect	Mid-size effect	Larger effect	Largest effect
(1) Absolute Frequency.	3% vs. 2%	23% vs. 2%	43% vs. 2%	63% vs. 2%	83% vs. 2%.
(2) Absolute Frequency + Qualitative Label.	More 3% vs. 2%	More 23% vs. 2%	More 43% vs. 2%	More 63% vs. 2%	More 83% vs. 2%.
(3) Absolute Difference + Qualitative Label.	More (1 percentage point).	More (21 percentage points).	More (41 percentage points).	More (61 percentage points).	More (81 percentage points).
(4) Absolute Frequency + Absolute Difference + Qualitative Label.	More (1 percentage point) 3% vs. 2%.	More (21 percentage points) 23% vs. 2%.	More (41 percentage points) 43% vs. 2%.	More (61 percentage points) 63% vs. 2%.	More (81 percentage points) 83% vs. 2%.

Note: Qualitative label example: ''More people taking drug X had side effect Y.'' There are two additional conditions: a no information condition and a qualitative label only (More) condition.

In the benefit design, we will use the mid-size effect for the risk information in all conditions and vary the information type to match the benefit information type (*e.g.,* participants who see absolute frequency benefit information will also see absolute frequency risk information). Similarly, in the risk design, we will use the mid-size effect for the benefit information in all conditions and vary the information type to match the risk information type.

The test product will be for the treatment of gastroesophageal reflux disease and modeled on an actual drug used to treat this condition. Participants will be consumers who have heartburn or acid reflux disease. They will be randomly assigned to read one ad version. After reading the ad, participants will answer a series of questions about the drug. We will test how the information type affects perceived efficacy, perceived risk, behavioral intention, and accurate understanding of the benefit and risk information. The questionnaires for the risk and benefit designs will have identical questions; however, the order will differ. In the risk design, questions about risk will appear before questions about benefits; in the benefit design questions about benefits will appear before questions about risks.

Data will be collected using an Internet protocol. Consumers who have heartburn or acid reflux disease will be recruited for the study. Because the task presumes basic reading abilities, all selected participants must speak and read English fluently. Participants must be 18 years or older. We will use Levene's test of homogeneity of variances, analysis of variances, and regressions to test hypotheses.

FDA estimates the burden of this collection of information as follows:

TABLE 4—ESTIMATED ANNUAL REPORTING BURDEN[1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (in hours)[2]	Total hours
Screener	30,000	1	30,000	2/60	1,000
Pretest	750	1	750	20/60	250
Main Study	11,000	1	11,000	20/60	3,667
Total	.....	.....	.....	.....	4,917

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Burden estimates of less than 1 hour are expressed as a fraction of an hour in the format ''[number of minutes per response]/60.''

V. References

FDA has verified the Web site addresses, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.

1. Aikin, K.J., J.L. Swasy, and A.C. Braman, ''Patient and Physician Attitudes and Behaviors Associated With DTC Promotion of Prescription Drugs—

Summary of FDA Survey Research Results, Final Report, November 19, 2004,'' accessed online at *http://www.fda.gov/downloads/Drugs/ScienceResearch/ResearchAreas/DrugMarketingAdvertisingandCommunicationsResearch/UCM152860.pdf.*

2. Aikin, K.J., ''Consumer Comprehension and Preference for Variations in the Proposed Over-the-Counter Drug Labeling Format, Final Report,'' 1998.
3. Vigilante, W.J. and M.S. Wogalter, ''The Preferred Order of Over-the-Counter (OTC) Pharmaceutical Label Components,'' *Drug Information Journal,* vol. 31, pp. 973–988, 1997.
4. Levy, A.S., S.B. Fein, and R.E. Schucker, ''More Effective Nutrition Label Formats Are Not Necessarily More Preferred, '' *Journal of the American Dietetic Association,* vol. 92, pp. 1230–1234, 1992.
5. Lorch, R. and E. Lorch, ''Effects of Organizational Signals on Text-Processing Strategies,'' *Journal of Educational Psychology,* vol. 87, pp. 537–544, 1995.
6. Lorch, R. and E. Lorch, ''Effects of Organizational Signals on Free Recall of Expository Text,'' *Journal of Educational Psychology,* vol. 88, pp. 38–48, 1996.
7. Lorch, R., E. Lorch, and W. Inman, ''Effects of Signaling Topic Structure on Text Recall,'' *Journal of Educational Psychology,* vol. 85, pp. 281–290, 1993.
8. Schwartz, L.M., S. Woloshin, and H.G. Welch, ''Using a Drug Facts Box to Communicate Drug Benefits and Harms: Two Randomized Trials,'' *Annals of Internal Medicine,* vol. 150, pp. 516–527, 2009, accessed online at *http://www.annals.org/cgi/content/full/0000605-200904210-00106v1.*
9. Webb, T.L. and P. Sheeran, ''Does Changing Behavioral Intentions Engender Behavior Change? A Meta-Analysis of the Experimental Evidence,'' *Psychological Bulletin,* vol. 132, pp. 249–268, 2006.
10. ''Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Experimental Study: Presentation of Quantitative Effectiveness Information to Consumers in Direct-to-Consumer (DTC) Television and Print Advertisements for Prescription Drugs,'' **Federal Register**, vol. 75, pp. 373–379, January 5, 2010.
11. ''Agency Information Collection Activities; Proposed Collection; Comment Request; Study of Clinical Efficacy Information in Professional Labeling and Direct-to-Consumer Print Advertisements for Prescription Drugs,'' **Federal Register**, vol. 75, pp. 34142–34146, June 16, 2010.
12. FDA, About the Center for Drug Evaluation and Research Page, DDMAC Research, (*http://www.fda.gov/AboutFDA/CentersOffices/CDER/ucm090276.htm*).

Dated: June 27, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–16552 Filed 6–30–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No FDA–2011–N–0457]

Agency Information Collection Activities; Proposed Collection; Comment Request; Experimental Study of Comparative Direct-to-Consumer Advertising

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on the Experimental Study of Comparative Direct-to-Consumer (DTC) Advertising. This study is designed to explore how consumers understand and interpret DTC ads that explicitly compare the efficacy, dosing, and risks, among other items, of two similar drugs whether comparisons are named or unnamed.

DATES: Submit either electronic or written comments on the collection of information by August 30, 2011.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Berbakos, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., P150–400B, Rockville, MD 20850, 301–796–3792, *Elizabeth.Berbakos@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Experimental Study of Comparative Direct-to-Consumer (DTC) Advertising Regulatory Background—(OMB Control No. 0910–New)

Section 1701(a)(4) of the Public Health Service Act (42 U.S.C. 300u(a)(4)) authorizes the Food and Drug Administration (FDA) to conduct research relating to health information. Section 903(b)(2)(c) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 393(b)(2)(c)) authorizes FDA to conduct research relating to drugs and other FDA regulated products in carrying out the provisions of the FD&C Act.

Regulations specify that sponsors cannot make comparative efficacy claims in advertising for prescription drugs without substantial evidence, most often in the form of well-controlled clinical trials, to support such claims (21 U.S.C. 202.1(e)(6)(ii); 21 U.S.C. 314.126). FDA has permitted some comparisons based on labeled attributes, such as indication, dosing, and mechanism of action. When substantial evidence does not yet exist, sponsors may use communication

techniques that invite implicit comparisons, such as making indirect comparisons, using comparative visuals, and using vaguer language. This study is designed to apply the existing comparative advertising literature to DTC advertising, where little research has been conducted to date.

Moreover, as part of the American Recovery and Reinvestment Act of 2009 (ARRA), the Agency for Healthcare Research and Quality (AHRQ) is in the process of securing a large compendium of information on the comparative effectiveness of medical treatments in 14 priority medical conditions, including: Arthritis, cancer, dementia, depression, diabetes, and substance abuse.[1] As part of this process, they will fund a set of CHOICE (Clinical and Health Outcomes Initiative in Comparative Effectiveness) studies designed to explore comparative effectiveness. When this large project is completed, FDA will have additional information to consider when regulating DTC advertising. It is possible that more DTC advertising will be comparative in nature. In preparation for this change, FDA is embarking on the proposed research to ensure that it has adequate information to assess whether comparative DTC ads provide truthful and nonmisleading information to consumers.

A. Comparative Advertising

Comparative advertisements typically compare two or more named or recognizably presented brands of the same product category, although some comparative advertisements implicitly compare a product to other brands by making superiority statements (e.g., ''Only Brand A can be cooked in five minutes or less.''). These ads are frequently used for commercial products, such as electronics, food products, and automobiles.

Marketing and advertising studies have investigated the influence of comparative ads, particularly in contrast to noncomparative ads.[2] Research specifically investigating the effects of comparative advertising on consumer attitudes—including attitudes toward the ad, the brand, and product use—has produced mixed results.[3] The research findings on the superiority of comparative versus noncomparative ads on purchase intentions, however, have been more conclusive. Relative to noncomparative ads, comparative ads were shown to result in greater purchase intentions.[4] Finally, other evidence suggests that there may be more potential for consumers to confuse brands when viewing comparative versus noncomparative ads. Brands advertised in a comparative format were shown to be more likely to be perceived as similar to the leading brand than brands advertised in a noncomparative format.[5]

B. Comparative Prescription Drug Advertisements

Despite extensive research on comparative advertising of consumer products and a limited number of studies on how DTC ads could help consumers compare drugs,[6] very little research has been conducted on comparative prescription drug advertisements.[7] Consequently, it is unclear whether these findings are applicable to comparative drug ads or how such claims influence consumers' perceived efficacy of advertised drugs.

Currently, most DTC ad comparisons focus on drug attributes, such as differences in dosing or administration method.[8] Because few head-to-head clinical trials have been conducted, very few DTC ads include efficacy-based comparisons;[9] however, this may change given the current national focus on comparative effectiveness research. Given the growing opportunities for comparative prescription drug advertising, the present study aims to investigate how consumers interpret and react to DTC comparative drug ads. Specifically, the study will explore two types of drug comparisons in DTC ads: (1) Drug efficacy comparisons; and (2) other evidence-based comparisons, such as dosing, mechanism of action, and indication. The study findings will inform FDA of relevant consumer issues relating to comparative DTC advertising.

C. Design Overview

This study will be conducted in two concurrent parts with random assignment to experimental condition. The goal of Phase I is to: (a) Explore how consumers understand and interpret ads that explicitly compare the efficacy of two similar drugs; and (b) learn whether including the name of the comparison drug affects comprehension and perceptions. We have defined named comparisons as ads that explicitly compare the drug's efficacy to another named medication. An example of this is: ''Drug A was shown to be more effective than Drug B at lowering high cholesterol.'' We have defined unnamed comparisons as ads that implicitly compare the drug's efficacy to other medications. An example of this is: ''Compared to other medications, Drug A lowered cholesterol in more patients.'' The control condition will not include a comparison to another drug.

We will explore the issue of named versus unnamed comparisons in print ads and television ads in a 2×3 factorial design as follows:

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[1] *http://www.ahrq.gov/fund/cerfactsheets/*. Last accessed May 23, 2011.

[2] Ang, S. H., and S. B. Leong (1994), ''Comparative advertising: superiority despite interference?'', *Asia Pacific Journal of Management,* 11(1), 33–46; Demirdjian, Z. S. (1983), ''Sales effectiveness of comparative advertising: An experimental field investigation,'' *Journal of Consumer Research,* 10, 362–364; Grewal, D., S. Kavanoor, E. F. Fern; C. Costley, and J. Barnes (1997), ''Comparative versus noncomparative advertising: a meta-analysis,'' *Journal of Marketing,* 61(4), 1–15; Priester, J. R., J. Godek, D.J. Nayakankuppum, and K. Park (2004), ''Brand congruity and comparative advertising: When and why comparative advertisements lead to greater elaboration,'' *Journal of Consumer Psychology,* 14(½), 115–123.

[3] See, for example, Grewal, D., S. Kavanoor, E. F. Fern, C. Costley, and J. Barnes (1997), ''Comparative versus noncomparative advertising: A meta-analysis,'' *Journal of Marketing,* 61(4), 1–15; Rogers, J. C., and T. G. Williams, (1989), ''Comparative advertising effectiveness: Practitioners' perceptions versus academic research findings,'' *Journal of Advertising Research,* 29(5), 22–37.

[4] Ang, S. H., S. B. Leong (1994), ''Comparative advertising: superiority despite interference?'', *Asia Pacific Journal of Management,* 11(1), 33–46; Demirdjian, Z. S. (1983), ''Sales effectiveness of comparative advertising: An experimental field investigation,'' *Journal of Consumer Research,* 10, 362–364; Grewal, D., S. Kavanoor, E. F. Fern, C. Costley, and J. Barnes (1997), ''Comparative versus noncomparative advertising: a meta-analysis,'' *Journal of Marketing,* 61(4), 1–15; Miniard, P. W., M. J. Barone, R. L. Rose, and K. C. Manning (1994), ''A re-examination of the relative persuasiveness of comparative and noncomparative advertising,'' *Advances in Consumer Research,* 21(1), 299–303.

[5] Droge, C. and R. Y. Darmon (1987), ''Associative positioning strategies through comparative advertising: Attribute versus overall similarity approaches,'' *Journal of Marketing Research,* 24, 377–388; Gorn, G. J.and C.B. Weinberg (1984), ''The impact of comparative advertising on perception and attitude: Some positive findings, *Journal of Consumer Research,* 11, 719–727; Iyer, E. S. (1988), ''The influence of verbal content and relative newness on the effectiveness of comparative advertising,'' *Journal of Advertising,,* 17(3), 15–21.

[6] See, for example, Schwartz, L. M., S. Woloshin, and H. G. Welch (2009), ''Using a drug facts box to communicate drug benefits and harms: two randomized trials,'' *Annals of Internal Medicine,* 150(8), 516–527; Hauber, A. B., A. F. Mohamed, F. R. Johnson, and H. Falvey (2009), ''Treatment preferences and medication adherence of people with Type 2 diabetes using oral glucose-lowering agents,'' *Diabetic Medicine: A Journal of the British Diabetic Association,* 26(4), 416–424.

[7] Mitra, A., J. Swasy, and K. Aikin (2006), ''How do consumers interpret market leadership claims in direct-to-consumer advertising of prescription drugs?'', *Advances in Consumer Research,* 33, 381–387.

[8] Applications for FDA Approval to Market a New Drug, 21 CFR 314.126. (2008), retrieved from *http://edocket.access.gpo.gov/cfr_2008/aprqtr/pdf/21cfr314.126.pdf*.

[9] Mitra, A., J. Swasy, and K. Aikin (2006), ''How do consumers interpret market leadership claims in direct-to-consumer advertising of prescription drugs?'', *Advances in Consumer Research,* 33, 381–387.

TABLE 1—PROPOSED DESIGN OF PHASE I (2 × 3)

Type of Ad	Labeling of Comparison Drug		
	Named	Unnamed	Control
Print			
Television			

The goal of Phase II is to determine how ads that include evidence-based comparisons are understood by consumers. These ads often compare factual characteristics from the drug labels (*e.g.,* dosing, mechanism of action). These characteristics do not necessarily affect drug efficacy, yet consumers may infer that one drug is better or more effective than another. We will examine four such comparisons: Indication, dosing, mechanism of action, and risk. In this phase, we also examine the salience of the comparison drug by manipulating whether the comparison drug is named in the ad or not. In this case, an example of a named comparison is: ''Drug A is taken only once a month, unlike Drug B, which you have to take every day.'' An example of a relevant unnamed comparison is: ''Drug A is the only medication that treats both high cholesterol and high blood pressure.'' Finally, we will explore whether the presence of a visual aid alters the understanding of these presentations. The control condition will not include a comparison to another drug.

These factors will be combined in a (2[type of ad] × 2[labeling of comparison drug] × 2[presence of visual] × 4[type of comparison] + 2[controls]) factorial design. For ease of illustration, the design is shown separately for print and television ads.

Table 2.--Proposed design of Phase II for print ads (2 x 2 x 4 + 1)

Labeling of Comparison Drug	Presence of Visual	Type of Comparison			
		Indication	Dosing	MOA*	Risk
Named	Visual				
	No Visual				
Unnamed	Visual				
	No Visual				

*MOA = Mechanism of Action

+

Control

Table 3.--Proposed design of Phase II for television ads (2 x 2 x 4 + 1)

Labeling of Comparison Drug	Presence of Visual	Type of Comparison			
		Indication	Dosing	MOA*	Risk
Named	Visual				
	No Visual				
Unnamed	Visual				
	No Visual				

*MOA = Mechanism of Action

+

Control

In both phases, we will examine the effects of these manipulated variables on several dependent measures, including perceived benefit and risk, comprehension of benefit and risk information, and behavioral intentions. We will also include demographic variables (such as gender and education level), and other variables such as health knowledge as covariates to determine if they have any influence on the measures of interest.

The sample will include approximately 8,000 participants who have been diagnosed with osteoarthritis (Phase I) or high cholesterol (Phase II). The protocol will take place via the Internet. Participants will be randomly assigned to view one print or one television ad for a fictitious prescription drug that treats either osteoarthritis or high cholesterol and will answer questions about it. The entire process is expected to take no longer than 20 minutes. This will be a one time (rather than annual) collection of information.

FDA estimates the burden of this collection of information as follows:

TABLE 4—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	No. of respondents	No. of responses per respondent	Total annual responses	Average burden per response	Total hours
Screener	16,000	1	16,000	.03 (2 min.)	480
Pretest	600	1	600	.33 (20 min.)	200

TABLE 4—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

Activity	No. of respondents	No. of responses per respondent	Total annual responses	Average burden per response	Total hours
Main Study	8,000	1	8,000	.33 (20 min.)	2,640
Total					3,320

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 28, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–16628 Filed 6–30–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0012]

Food and Drug Administration (FDA) and Marine Environmental Sciences Consortium/Dauphin Island Sea Lab Collaboration (U19)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of grant funds for the support of a cooperative agreement between the Center for Food Safety and Applied Nutrition (CFSAN) and the Marine Environmental Sciences Consortium/Dauphin Island Sea Lab (DISL). The goal of the DISL is marine science education, basic and applied marine science research, coastal zone management policy, and educating the general public.

DATES: Important dates are as follows:

1. The application due date is August 1, 2011.

2. The anticipated start date is September, 2011.

3. The opening date is the date the Funding Opportunity is published in the **Federal Register**.

4. The expiration date is August 2, 2011.

FOR FURTHER INFORMATION AND ADDITIONAL REQUIREMENTS CONTACT:

Scientific/Programmatic Contact

Robert Dickey, Office of Food Safety, Gulf Coast Seafood Laboratory, One Iberville Dr., PO. D1–1, rm. 122 (HFS 400), Dauphin Island, AL 36528,. Tele.: 251–690–3368; e-mail: *Robert.Dickeyr@fda.hhs.gov.*

Grants Management Contact

Gladys Melendez-Bohler, Office of Acquisition and Grant Services (OAGS), Food and Drug Administration, 5630 Fishers Lane, rm. 1078, Rockville, MD 20857, Tele.: 301–827–7175; e-mail: *Gladys-Melendez-Bohler@fda.hhs.gov.*

For more information on this funding opportunity announcement (FOA) and to obtain detailed requirements, please refer to the full FOA located at *http://www.fda.gov/Food/NewsEvents/default.htm.*

SUPPLEMENTARY INFORMATION:

RFA–FD–11–015; 93.103.

A. Background

This FOA issued by the FDA/Office of Food Safety is soliciting a sole source grant application from the Dauphin Island Sea Lab (DISL). FDA is authorized to enforce the Federal Food, Drug, and Cosmetic Act (the FD&C Act) as amended (21 U.S.C. 301 *et seq.*). In fulfilling its responsibilities under the FD&C Act, FDA among other things, directs its activities toward promoting and protecting the public health by ensuring the safety and security of foods (Appendix A). To accomplish its mission, FDA must stay abreast of the latest developments in research and also communicate with stakeholders about complex scientific and public health issues. Increased development of research, education and outreach partnerships with the Marine Environmental Science Consortium-Dauphin Island Sea Lab (DISL) will greatly contribute to FDA's mission.

The DISL is one of Alabama's most valuable assets and adds immeasurably to the quality of life in the state and beyond. The DISL network of 21 institutions enrolls students worldwide in degree programs delivered in classrooms, laboratories, education centers, and online. The DISL's nationally ranked programs, leading-edge research collaborations, and innovative business partnerships provide an environment to support diverse multidisciplinary exchanges with FDA. The scientific, public health and policy expertise within FDA provide opportunities for collaborations that support the DISL mission and strategic themes to provide access to high-quality education, research discovery, and knowledge-based services responsive to both the promises and demands of the state and the nation in the new century.

B. Research Objectives

FDA Gulf Coast Seafood Laboratory (GCSL) and the Marine Environmental Science Consortium of the DISL (the Parties) have a shared interest in scientific progress in the diverse disciplines that directly and indirectly affect seafood safety and human and animal health. The Parties also endorse scientific training for faculty, students and staff to foster a well-grounded foundation in interdisciplinary fields in which academia and government share mutual interest.

The cooperative agreement will establish terms of collaboration between FDA and DISL to support these shared interests that can be pursued through programs of collaborative research, public outreach, cooperative international initiatives, disciplinary training, and exchange of scientists and staff, including a program of graduate student internships.

The types of activities expected to develop from this agreement include:

- Exchanges between university faculty and staff and FDA scientists and staff;
- Educational opportunities for qualified students (graduate), staff members and faculty members in the Parties' laboratories, classroom and offices;
- Joint meetings for education and research;
- Research collaborations;
- Cooperative international activities including outreach; and
- Sharing of unique facilities and equipment for increased cost efficiencies for scientific endeavors;
- Promulgation and communication of identified collaborative efforts through appropriate means;
- Adjunct, affiliates and research facility appointments for appropriate FDA professional staff, provided that appointment of such candidates will advance specific programmatic

objectives of the parties as appropriate, and provided that such appointments comply with university policies on appointment of facility/affiliates;

• In an effort to enhance collaborative interactions and communication between both institutions, FDA and DISL will collaborate in the development of regular workshops where faculty from all the institutions within the DISL and FDA scientists and staff share information about ongoing research, education and outreach efforts of mutual interest.

C. Eligibility Information

Competition is limited to the DISL. There are no other sources that can provide the required proximity to the FDA/GCSL and independent marine fieldwork capability required. The DISL is a diverse institutional consortium of undergraduate and graduate education and research. University programs faculty at the DISL are actively involved in both basic and applied research in coastal waters of the northern Gulf of Mexico. The DISL operates marine research vessels (boats) crewed by faculty and students for field studies and sample collections. DISL possesses extensive laboratory and wet-laboratory resources relevant to the mission of the FDA/GCSL. The DISL is located within 1 mile of the FDA/GCSL which will engage the proposed program of collaboration and internships. This unique circumstance of capability, capacity and proximity is irreplaceable without extended and costly concessions.

II. Award Information/Funds Available

A. Award Amount

The estimated amount of support in FY12 will be up to $125,000. (direct plus indirect costs) with the possibility of 4 additional years of support for up to $125,000.00 per year, subject to the availability of funds. Future year amounts will depend on annual appropriations and successful contract performance.

B. Length of Support

The award will provide 1 year of support and include future recommended support for 4 additional years, contingent upon satisfactory performance in the achievement of project and program reporting objectives during the preceding year and the availability of Federal fiscal year appropriations.

III. Paper Application, Registration, and Submission Information

To submit a paper application in response to this FOA, applicants should first review the full announcement located at *http://www.fda.gov/Food/NewsEvents/default.htm.* (FDA has verified the Web site addresses throughout this document, but FDA is not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.) Persons interested in applying for a grant may obtain an application at *http://grants2.nih.gov/grants/funding/phs398/phs398.html.* For all paper application submissions, the following steps are required:

• Step 1: Obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) Number.

• Step 2: Register With Central Contractor Registration.

• Step 3: Register With Electronic Research Administration (eRA) Commons.

Steps 1 and 2, in detail, can be found at *http://www07.grants.gov/applicants/organization_registration.jsp.* Step 3, in detail, can be found at *https://commons.era.nih.gov/commons/registration/registrationInstructions.jsp.* After you have followed these steps, submit paper applications to:

Gladys Melendez-Bohler, Office of Acquisition and Grant Services (OAGS), Food and Drug Administration, 5630 Fishers Lane, rm. 1078, Rockville, MD 20857.

Dated: June 28, 2011.

Leslie Kux,

Acting Assistant Commissioner for Policy.

[FR Doc. 2011–16627 Filed 6–30–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0002]

Transmissible Spongiform Encephalopathies Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Transmissible Spongiform Encephalopathies Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on August 1, 2011, from 9 a.m. to approximately 4:30 p.m.

Location: Hilton Hotel, Washington DC North Gaithersburg, 620 Perry Pkwy., Gaithersburg, MD 20877. For those unable to attend in person, the meeting will also be Web cast. The Web cast will be available at the following link. Transmissible Spongiform Encephalopathies Advisory Committee *http://fda.yorkcast.com/webcast/Viewer/?peid=8477143b2da5442a8192731eccde3b7a1d.*

CONTACT PERSON: Bryan Emery or Rosanna Harvey, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss donor deferral for time spent in Saudi Arabia to reduce the risk of variant Creutzfeldt-Jakob disease (vCJD) by blood and blood products and human cells, tissues and cellular and tissue-based products.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before July 25, 2011. Oral presentations from the public will be scheduled on August 1, 2011, between approximately 2:15 p.m. and 2:45 p.m.

Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before July 15, 2011. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by July 18, 2011.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Bryan Emery or Rosanna Harvey at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 28, 2011.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2011–16574 Filed 6–30–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0002]

Advisory Committee for Pharmaceutical Science and Clinical Pharmacology; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Advisory Committee for Pharmaceutical Science and Clinical Pharmacology.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on July 26, 2011, from 8 a.m. to 5:30 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You'', click on ''Public Meetings at the FDA White Oak Campus''. Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Yvette Waples, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, e-mail: *ACPS-CP@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), and follow the prompts to the desired center or product area. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On July 26, 2011, the committee will discuss presentations by the Office of Generic Drugs (OGD) on bioequivalence issues and quality standards relative to narrow therapeutic index (NTI) drug products as a class. In response to feedback during the April 13, 2010, Advisory Committee for Pharmaceutical Science and Clinical Pharmacology (ACPS–CP) meeting, the committee will further discuss the definition and list of NTI drugs, as well as proposed bioequivalence standards for these products. The committee will also receive awareness presentations relevant to OGD's ongoing focus on quality and safety of generic drug products. Presentations will outline current activities seeking to better understand the impact of formulation and quality on the performance of generic drug products and current thinking related to potential regulatory pathways for these issues.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before July 19, 2011. Oral presentations from the public will be scheduled between approximately 11 a.m. to 12 noon, and 4:30 p.m. to 5 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before July 12, 2011. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by July 13, 2011.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Yvette Waples at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on

public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 27, 2011.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2011–16576 Filed 6–30–11; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Food Reporting Comparison Study (FORCS) and Food and Eating Assessment Study (FEAST) (NCI)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 15, 2011 (76 FR 21383). One public comment was received on April 15 requesting a copy of the data collection package. The submission was sent to the requestor on April 21. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Title: Food Reporting Comparison Study (FORCS) and Food and Eating Assessment Study (FEAST) (NCI). *Type of Information Collection Request:* Extension. *Need and Use of Information Collection:* The title of this collection was previously, ''24-Hour Dietary Recall Method Comparison and the National Cancer Institute (NCI) Observational Feeding Studies.'' The objective of the two studies is to compare the performance of the newly developed computerized Automated Self-Administered 24-Hour Recall (ASA24) approach to collecting 24-hour recall (24HR) data with the current standard, the interviewer-administered Automated Multiple Pass Method (AMPM). The ultimate goal is to determine to what extent the new automated instrument can be used instead of the more expensive interviewer-administered instrument in the collection of dietary intake data. *Frequency of Response:* Twice. *Affected Public:* Individuals. *Type of Respondents:* For the FORCS study, approximately 1,200 adult members from three health maintenance organization plans (in Minnesota, California, and Michigan) between ages 20 and 70 years. For the FEAST study, approximately 90 adult residents from the Washington, DC metropolitan area between ages 20 and 70 years. The annual reporting burden is estimated at 866 hours (see table below). This amounts to an estimated 2598 burden hours over the 3-year data collection period with a total cost to the respondents $54,293. There are no Capital costs, Operating costs, and/or Maintenance costs to report.

Participants and study	Questionnaire	Number of respondents	Frequency of response	Average time per response minutes/hour	Annual hour burden
General Public for FORCS.	Refusal Reasons and Demographics (Attach 4A, Screen 8).	1770	1	5/60 (0.083)	148
	Contact Information (Attach 4A, Screen 5).	400	1	5/60 (0.083)	33
	Screener (Attach 5)	400	1.00	5/60 (0.083)	33
	AMPM (Attach 1)	400	1.00	30/60 (0.50)	200
	ASA24 (Attach 2)	400	1.00	30/60 (0.50)	200
	Demographics and Health Questionnaire (Attach 6).	360	1.00	10/60 (0.167)	60
	Demographics, Health and Preference Questionnaire (Attach 7).	360	1.00	15/60 (0.25)	90
General Public for FEAST.	Screener (Attach 8)	33	1.00	5/60 (0.083)	6
	Reminder Telephone Call (Attach 10)	33	1.00	5/60 (0.083)	6
	Eating 3 meals	33	1.00	135/60 (2.25)	151
	Either AMPM or ASA24 (Attach 1 or 2).	33	1.00	30/60 (0.50)	34
	Demographics and Health Questionnaire (Attach 12).	33	1.00	10/60 (0.167)	11
		3485			866

Request for Comments: Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Attention: NIH Desk Officer, Office of Management and Budget, Office of Regulatory Affairs at *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974. To request more information on the proposed project or to obtain a copy of the data collection plans, contact Frances E. Thompson,

PhD, Project Officer, National Cancer Institute, NIH, EPN 4095A, 6130 Executive Boulevard MSC 7335, Bethesda, Maryland 20892–7335, or call non-toll-free number 301–594–4410, or Fax your request to 301–435–3710, or e-mail your request, including your address, to *thompsof@mail.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: June 27, 2011.

Vivian Horovitch-Kelley,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. 2011–16613 Filed 6–30–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

New Proposed Collection; Comment Request; Neuropsychosocial Measures Formative Research Methodology Studies for the National Children's Study

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute of Child Health and Human Development (NICHD), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval. This proposed information collection was previously published in the **Federal Register** on May 2, 2011, pages 24497–24498, and allowed 60 days for public comment. No comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

Proposed Collection

Title: Neuro-developmental and Psycho-Social Measures Formative Research Studies for the National Children's Study (NCS).

Type of Information Collection Request: Generic Clearance.

Need and Use of Information Collection: The Children's Health Act of 2000 (Pub. L. 106–310) states:

(a) *Purpose.*—It is the purpose of this section to authorize the National Institute of Child Health and Human Development* to conduct a national longitudinal study of environmental influences (including physical, chemical, biological, and psychosocial) on children's health and development.

(b) *In General.*—The Director of the National Institute of Child Health and Human Development* shall establish a consortium of representatives from appropriate Federal agencies (including the Centers for Disease Control and Prevention, the Environmental Protection Agency) to—

(1) Plan, develop, and implement a prospective cohort study, from birth to adulthood, to evaluate the effects of both chronic and intermittent exposures on child health and human development; and

(2) Investigate basic mechanisms of developmental disorders and environmental factors, both risk and protective, that influence health and developmental processes.

(c) *Requirement.*—The study under subsection (b) shall—

(1) Incorporate behavioral, emotional, educational, and contextual consequences to enable a complete assessment of the physical, chemical, biological, and psychosocial environmental influences on children's well-being;

(2) Gather data on environmental influences and outcomes on diverse populations of children, which may include the consideration of prenatal exposures; and

(3) Consider health disparities among children, which may include the consideration of prenatal exposures.

To fulfill the requirements of the Children's Health Act, the results of formative research will be used to maximize the efficiency (measured by scientific robustness, participant and infrastructure burden, and cost) of tools to assess language, behavior, and neurodevelopment, psychosocial stress, and health literacy and thereby inform data collection methodologies for the National Children's Study (NCS) Vanguard and Main Studies. With this submission, the NCS seeks to obtain OMB's generic clearance to conduct formative research featuring neuro-developmental and psycho-social measures.

The results from these formative research projects will inform the feasibility (scientific robustness), acceptability (burden to participants and study logistics) and cost of NCS Vanguard and Main Study neuro-developmental and psycho-social measures in a manner that minimizes public information collection burden compared to burden anticipated if these projects were incorporated directly into either the NCS Vanguard or Main Study.

Frequency of Response: Annual [As needed on an on-going and concurrent basis].

Affected Public: Members of the public, researchers, practitioners, and other health professionals.

Type of Respondents: Women of child-bearing age, infants, children, fathers, community leaders, members, and organizations, health care facilities and professionals, public health, environmental, social and cognitive science professional organizations and practitioners, hospital administrators, cultural and faith-based centers, and schools and child care organizations. These include both persons enrolled in the NCS Vanguard Study and their peers who are not participating in the NCS Vanguard Study.

Annual reporting burden: See Table 1. The annualized cost to respondents is estimated at: $540,000 (based on $10 per hour). There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN SUMMARY, ENVIRONMENTAL SCIENCE

Data collection activity	Type of respondent	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Adult Psychosocial Stress	NCS participants	4,000	1	1	4,000
	Members of NCS target population (not NCS participants).	4,000	1	1	4,000
Child Developmental Measures	NCS participants	4,000	1	1	4,000
	Members of NCS target population (not NCS participants).	4,000	1	1	4,000
Health Disparities	NCS participants	4,000	1	1	4,000
	Members of NCS target population (not NCS participants).	4,000	1	1	4,000
Small, focused survey and instrument design and administration.	NCS participants	4,000	2	1	8,000

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN SUMMARY, ENVIRONMENTAL SCIENCE—Continued

Data collection activity	Type of respondent	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
	Members of NCS target population (not NCS participants).	4,000	2	1	8,000
	Health and Social Service Providers	2,000	1	1	2,000
	Community Stakeholders	2,000	1	1	2,000
Focus groups	NCS participants	2,000	1	1	2,000
	Members of NCS target population (not NCS participants).	2,000	1	1	2,000
	Health and Social Service Providers	2,000	1	1	2,000
	Community Stakeholders	2,000	1	1	2,000
Cognitive interviews	NCS participants	500	1	2	1,000
	Members of NCS target population (not NCS participants).	500	1	2	1,000
Total		45,000			54,000 hrs

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Sarah L. Glavin, Deputy Director, Office of Science Policy, Analysis and Communication, National Institute of Child Health and Human Development, 31 Center Drive Room 2A18, Bethesda, Maryland 20892, or call non-toll free number (301) 496–1877 or E-mail your request, including your address to *glavins@mail.nih.gov.*

DATES: *Comments Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: June 21, 2011.

Sarah L. Glavin,

Deputy Director, Office of Science Policy, Analysis and Communications, National Institute of Child Health and Human Development.

[FR Doc. 2011–16612 Filed 6–30–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, June 27, 2011, 8:30 a.m. to June 27, 2011, 6 p.m. The River Inn, 924 25th Street, NW., Washington, DC 20037 which was published in the **Federal Register** on June 16, 2011, 76 FR 35223.

The meeting will be held July 15, 2011 at One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037. The meeting time remains the same. The meeting is closed to the public.

Dated: June 24, 2011.

Jennifer S. Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2011–16615 Filed 6–30–11; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2011–0525]

Qualification for an STCW Endorsement as Officer in Charge of a Navigational Watch (OICNW)

AGENCY: Coast Guard, DHS.

ACTION: Notice of availability.

SUMMARY: The Coast Guard announces the availability of Office of Vessel Activities (CG–543) Policy Letter 11–07 amending its policy concerning qualification for a STCW endorsement as Officer in Charge of a Navigational Watch (OICNW). The policy is currently found in National Maritime Center (NMC) Policy Letters 01–02 and 16–02.

DATES: This policy is effective on July 1, 2011.

This notice, as well as NMC Policy Letters 01–02 and 16–02 and the new, amended policy, are available in the docket and can be viewed by going to *http://www.regulations.gov,* inserting USCG–2011–0525 in the ''Keyword'' box, and then clicking ''Search.''

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice, call or e-mail Luke B. Harden, Mariner Credentialing Program Policy Division (CG–5434), U.S. Coast Guard; telephone 202–372–1206, e-mail *Luke.B.Harden@uscg.mil.* If you have questions on viewing material in the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Title 46 Code of Federal Regulations (CFR) section 11.903(c) establishes that

applicants for certain officer endorsements on a merchant mariner credential (MMC) must comply with competency standards set forth in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW). Currently, National Maritime Center policy letters 01–02 and 16–02 discuss methods for mariners to demonstrate their compliance with those standards, and thus qualify for an STCW endorsement for Officer in Charge of a Navigational Watch (OICNW).

The Coast Guard plans to amend the policy for qualifying for an OICNW endorsement. Most notably, the amendment addresses alternatives to formal training for demonstrating competence rather than relying solely on completion of formal training. The amended policy is in the docket. This policy will cancel NMC Policy Letter 01–02 and 16–02.

Authority: We issue this notice of policy availability under the authority of 5 U.S.C. 552(a).

Dated: June 15, 2011.

Kevin S. Cook,

Rear Admiral, U.S. Coast Guard, Director of Prevention Policy.

[FR Doc. 2011–16540 Filed 6–30–11; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5548–D–02]

Order of Succession for the Office of Strategic Planning and Management

AGENCY: Office of Strategic Planning and Management, HUD.

ACTION: Notice of Order of Succession.

SUMMARY: In this notice, the Director, Office of Strategic Planning and Management, designates the Order of Succession for the Office of Strategic Planning and Management. This is the first order of succession established for this office.

DATES: *Effective Date: June 22, 2011.*

FOR FURTHER INFORMATION CONTACT: Nina M. Coward, Office of Strategic Planning and Management, Department of Housing and Urban Development, 451 7th Street, SW., Room 10156, Washington DC 20410, telephone number 202–402–3897. (This is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Director, Office of Strategic Planning and Management, is issuing this Order of Succession of officials authorized to perform the functions and duties of the Office of Strategic Planning and Management when, by reason of absence, disability, or vacancy in office, the Director is not available to exercise the powers or perform the duties of the office. This Order of Succession is subject to the provisions of the Federal Vacancies Reform Act of 1998 (5 U.S.C. 3345–3349d). This is the first order of succession established for this office.

Accordingly, the Director designates the following Order of Succession:

Subject to the provisions of the Federal Vacancies Reform Act of 1998, during any period when, by reason of absence, disability, or vacancy in office, the Director, Office of Strategic Planning and Management, is not available to exercise the powers or perform the duties of the Director, the following officials within the Office of Strategic Planning and Management are hereby designated to exercise the powers and perform the duties of the Office:

(1) Deputy Director of the Office of Strategic Planning and Management;

(2) Division Director—Change Management;

(3) Division Director—Performance Management;

(4) Division Director—Process & Technology; and

(5) Division Director—American Recovery and Reinvestment Act.

These officials shall perform the functions and duties of the office in the order specified herein, and no official shall serve unless all the other officials, whose position titles precede his/hers in this order, are unable to act by reason of absence, disability, or vacancy in office.

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 22, 2011.

Peter J. Grace,

Director of the Office of Strategic Planning and Management.

[FR Doc. 2011–16639 Filed 6–30–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5548–D–01]

Redelegation of Authority to the Office of Strategic Planning and Management

AGENCY: Office of the Chief Operating Officer, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: Through this notice, the Chief Operating Officer of HUD (COO) redelegates to the Director, Office of Strategic Planning and Management, authority and responsibility for the development and execution of the department's strategic plan.

DATES: *Effective Date:* June 22, 2011.

FOR FURTHER INFORMATION CONTACT: Nina M. Coward, Office of Strategic Planning and Management, Department of Housing and Urban Development, 451 7th Street, SW., Room 10156, Washington, DC 20410–6000, telephone number 202–402–3897. (This is not a toll-free number). Persons with hearing- or speech-impairments may access this number though TTY by calling the toll-free Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Section A. Authority

The COO hereby redelegates to the Director, Office of Strategic Planning and Management, authority and responsibility for the development and execution of the department's strategic plan. In carrying out this responsibility, the Director, Office of Strategic Planning and Management, shall, among other duties:

1. Implement the Department's program performance measurement and management process.

2. Manage and support the execution of the Transformation Initiative, the Department's multiyear, multifaceted organizational change program.

3. Oversee the implementation of the economic stimulus funding allocated to the Department through the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5, approved February 17, 2009).

4. Advise the Secretary on matters related to management of the Department.

Section B. Authority to Redelegate

The Director, Office of Strategic Planning, is authorized to redelegate to employees of HUD any of the authority delegated under Section A above.

Section C. Authority Superseded

There are no previous redelegations of authority.

The Chief Operations Officer may revoke the authority authorized herein, in whole or part, at any time.

Authority: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: June 22, 2011.

Estelle B. Richman,

Chief Operating Officer.

[FR Doc. 2011–16649 Filed 6–30–11; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Establishment of the 21st Century Conservation Service Corps Advisory Committee

AGENCY: Office of the Secretary, Interior.

ACTION: Notice and call for nominations.

SUMMARY: The Department of the Interior is announcing the establishment of the 21st Century Conservation Service Corps Advisory Committee (Committee). The purpose of the Committee is to provide recommendations to the Secretary of the Interior on how to create a 21st Century Conservation Service Corps (21CSC) to engage young Americans in public lands and water restoration. The 21CSC will focus on helping young people, including low-income, underserved, and diverse youth, gain valuable training and work experience while accomplishing needed conservation work on public lands.

The Department of the Interior is seeking nominations for individuals to be considered as Committee members. Nominations should describe and document the proposed member's qualifications for membership to the Committee, and include a resume listing their name, title, address, telephone, e-mail, and fax number.

DATES: Written nominations must be received by August 1, 2011.

ADDRESSES: Send nominations to: Gabrielle Horner, Partnerships Coordinator, Office of the Secretary, Department of the Interior, 1849 C Street, NW., Mailstop 3559, Washington DC 20240; *Gabrielle_Horner@ios.doi.gov,* (202) 208–5904.

FOR FURTHER INFORMATION CONTACT: Gabrielle Horner, Partnerships Coordinator, Office of the Secretary, Department of the Interior, 1849 C Street, NW., Mailstop 3559, Washington DC 20240; *Gabrielle_Horner@ios.doi.gov,* (202) 208–5904.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. App. 2) and with the concurrence of the General Services Administration, the Department of the Interior is announcing the establishment of an advisory committee for the 21st Century Conservation Service Corps. The Committee is a discretionary advisory committee established under the authority of the Secretary of the Interior, in furtherance of the Take Pride in America Program, 16 U.S.C. 4601 *et seq.,* and Ken Salazar, Department of the Interior, Thomas J. Vilsack, Department of Agriculture, Lisa P. Jackson, Environmental Protection Agency and Nancy J. Sutley, Council on Environmental Quality, America's Great Outdoors: A Promise to Future Generations (2011). The Committee will operate under the provisions of the FACA and will report to the Secretary of the Interior through the Director of the Office of Youth in the Great Outdoors, Office of the Secretary, as the Designated Federal Officer (DFO). The Office of Youth in the Great Outdoors will provide administrative and logistical support to the Committee.

The purpose of the Committee is to provide recommendations on: (1) Developing a framework for the 21CSC, including program components, structure, and implementation, as well as accountability and performance evaluation criteria to measure success; (2) the development of certification criteria for 21CSC providers and individual certification of 21CSC members; (3) strategies to overcome existing barriers to successful 21CSC program implementation; (4) identifying partnership opportunities with corporations, private businesses or entities, foundations, and non-profit groups, as well as state, local, and tribal governments, to expand support for conservation corps programs, career training and youth employment opportunities; (5) and developing pathways for 21 CSC participants for future conservation engagement and natural resource careers.

Members of the Committee shall include representatives from among, but not limited to, the following interest groups: Youth including High School, College and Graduate Students; State, Tribal, Local, or Private/Non-Profit Youth Employment Programs and/or Conservation Corps; Veteran Employment and Training Organizations; Philanthropic Organizations, Corporations or Industry Associations Investing in Youth Service or Employment and/or Conservation Programs; Groups Investing in Connecting Diverse or Underserved Youth to Conservation Service or Employment Opportunities; Outdoor Recreation Organizations & Associations; National Conservation or Environmental Groups; Hunting and Fishing Groups; Cultural and Historic Preservation Groups; Labor Organizations or Trade Groups; Colleges, Universities, and/or Community Colleges; and the Federal government including the Department of the Interior; Department of Agriculture; Environmental Protection Agency; Department of Labor; Department of Commerce; Department of Health and Human Services; U.S. Army Corps of Engineers; Office of Personnel Management; Council on Environmental Quality; and the Corporation for National and Community Service.

No individual who is currently registered as a Federal lobbyist is eligible to serve as a member of the Committee.

The Committee will meet approximately 4–6 times annually, and at such times as designated by the DFO.

Members of the Committee will serve without compensation.

Certification Statement: I hereby certify that the establishment of the 21st Century Conservation Service Corps Advisory Committee is necessary, is in the public interest and is established under the authority of the Secretary of the Interior, in furtherance of the Take Pride in America Program, 16 U.S.C. 4601 *et seq.,* and Ken Salazar, Department of the Interior, Thomas J. Vilsack, Department of Agriculture, Lisa P. Jackson, Environmental Protection Agency and Nancy J. Sutley, Council on Environmental Quality, *America's Great Outdoors: A Promise to Future Generations* (2011).

Dated: June 27, 2011.

Ken Salazar,

Secretary of the Interior.

[FR Doc. 2011–16584 Filed 6–30–11; 8:45 am]

BILLING CODE 4310–10–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

Environmental Documents Prepared for Proposed Oil, Gas, and Mineral Operations by the Gulf of Mexico Outer Continental Shelf (OCS) Region

AGENCY: The Bureau of Ocean Energy Management, Regulation and Enforcement, Interior.

ACTION: Notice of the availability of environmental documents prepared for OCS mineral proposals by the Gulf of Mexico OCS Region.

SUMMARY: The Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), in accordance with Federal Regulations that

implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Site-Specific Environmental Assessments (SEA) and Findings of No Significant Impact (FONSI), prepared by BOEMRE for the following oil-, gas-, and mineral-related activities proposed on the Gulf of Mexico.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section at the number below. Bureau of Ocean Energy Management, Regulation and Enforcement, Gulf of Mexico OCS Region, Attention: Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 250, New Orleans, Louisiana 70123–2394, or by calling 1–800–200–GULF.

SUPPLEMENTARY INFORMATION: BOEMRE prepares SEAs and FONSIs for proposals that relate to exploration, development, production, and transport of oil, gas, and mineral resources on the Federal OCS. These SEAs examine the potential environmental effects of activities described in the proposals and present BOEMRE conclusions regarding the significance of those effects. Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes a major Federal action that significantly affects the quality of the human environment in accordance with NEPA Section 102(2)(C). A FONSI is prepared in those instances where BOEMRE finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the SEA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Activity/operator	Location	Date
Hunt Oil Company, Structure Removal, SEA ES/SR 11–001.	East Cameron, Block 75, Lease OCS–G 25939, located 20 miles from the nearest Louisiana shoreline.	1/17/2011
Dynamic Offshore Resources, LLC, Structure Removal, SEA ES/SR 11–003, 11–004 & 11–005.	Eugene Island, Block 097, Lease OCS–G 17964, located 35 miles from the nearest Louisiana shoreline.	1/17/2011
ATP Oil & Gas Corporation, Structure Removal, SEA ES/SR 10–188.	Matagorda Island, Block 709, Lease OCS–G 13295, located 27 miles from the nearest Texas shoreline.	1/17/2011
ATP Oil & Gas Corporation, Structure Removal, SEA ES/SR 11–002.	Mobile, Block 959, Lease OCS–G 05759, located 12 miles from the nearest Alabama shoreline.	1/17/2011
Nippon Oil Exploration U.S.A. Limited, Structure Removal, SEA ES/SR 11–008, 11–009 & 11–010.	South Marsh Island, Block 243, Lease OCS–G 04270, located 15 miles from the nearest Louisiana shoreline.	1/17/2011
Energy Resource Technology GOM, Inc., Structure Removal, SEA ES/SR 11–006.	Vermilion, Block 61, Lease OCS–G 22607, located 17 miles from the nearest Louisiana shoreline.	1/17/2011
Nexen Petroleum U.S.A. Inc., Structure Removal, SEA ES/SR 10–195, 10–196, 10–197 & 10–198.	Vermilion, Block 65, Lease OCS–G 03327, located 18 miles from the nearest Louisiana shoreline.	1/17/2011
Nexen Petroleum U.S.A. Inc., Structure Removal, SEA ES/SR 10–199.	Vermilion, Block 66, Lease OCS–04787, located 17 miles from the nearest Louisiana shoreline.	1/17/2011
Nexen Petroleum U.S.A. Inc., Structure Removal, SEA ES/SR 10–200.	Vermilion, Block 66, Lease OCS–G 04787, located 18 miles from the nearest Louisiana shoreline.	1/17/2011
Chevron U.S.A. Inc., Structure Removal, SEA ES/SR 11–011 & 11–012.	West Cameron, Block 48, Lease OCS–G 01351, located 4 miles from the nearest Louisiana shoreline.	1/17/2011
Pisces Energy LLC, Structure Removal, SEA ES/SR 11–015.	High Island, Block A–523, Lease OCS–G 11390, located 91 miles from the nearest Texas shoreline.	1/20/2011
Shell Offshore Inc., Geological & Geophysical Survey, SEA L10–049.	Located in the Central Planning Area of the Gulf of Mexico	1/20/2011
Mariner Energy Inc, Exploration Plan, SEA R–5062	Located in the Central Planning Area of the Gulf of Mexico	1/20/2011
Tesla Offshore, LLC, Geological & Geophysical Survey, SEA L10–042.	Located in the Central Planning Area of the Gulf of Mexico	1/20/2011
Dynamic Global Advisors Inc., Geological & Geophysical Survey, SEA M10–008.	Located in the Eastern Planning area of the Gulf of Mexico	1/25/2011
Coastal Technology Corporation, Geological & Geophysical Survey, SEA E10–002, E10–003 & E10–004.	Located on the Atlantic Outer Continental Shelf	2/1/2011
Chevron U.S.A. Inc., Well Conductor Removal, SEA APM SM217–226.	South Marsh Island, Block 217, Lease OCS 00310, located 12 miles from the nearest Louisiana shoreline.	2/2/2011
Spectrum Geo, Inc., Geological & Geophysical Survey, SEA M10–001, M10–002 & M10–003.	Located in the Eastern, Central and Western Planning Areas of the Gulf of Mexico.	2/2/2011
Energy Resource Technology GOM, Inc., Structure Removal, SEA ES/SR 11–024 & 11–025.	Matagorda Island, Block 604, Lease OCS–G 06037, located 17 miles from the nearest Texas shoreline.	2/3/2011
Energy Resource Technology GOM, Inc., Structure Removal, SEA ES/SR 11–019.	West Cameron, Block 398, Lease OCS–G 22548, located 78 miles from the nearest Louisiana shoreline.	2/3/2011
Energy Resource Technology GOM, Inc., Structure Removal, SEA ES/SR 11–020.	West Cameron, Block 417, Lease OCS–G 22550, located 75 miles from the nearest Louisiana shoreline.	2/3/2011
Energy Resource Technology GOM, Inc., Structure Removal, SEA ES/SR 11–023.	Brazos, Block 453, Lease OCS–G 04713, located 15 miles from the nearest Texas shoreline.	2/4/2011
Mariner Energy, Inc., Structure Removal, SEA ES/SR 11–031.	Matagorda Island, Block 565, Lease OCS–G 18885, located 13 miles from the nearest Texas shoreline.	2/8/2011
Fugro Multi Client Services, Inc., Geological & Geophysical Survey, SEA M10–005.	Located in the Eastern Planning Area of the Gulf of Mexico	2/16/2011
EMGS Americas Inc., Geological & Geophysical Survey, SEA T10–006.	Located in the Western Planning Area of GOM south of Texas, within the Alaminos Canyon Area.	2/16/2011
Energy Resource Technology GOM, Inc., Structure Removal, SEA ES/SR 11–007.	Matagorda Island, Block 604, Lease OCS–G 06037, located 17 miles from the nearest Texas shoreline.	2/24/2011
Apache Corporation, Structure Removal, SEA ES/SR 11–036.	Matagorda Island, Block 696, Lease OCS–G 04704, located 14 miles from the nearest Texas shoreline.	2/24/2011

Activity/operator	Location	Date
Energy Resource Technology GOM, Inc., Structure Removal, SEA ES/SR 11–021.	West Cameron, Block 416, Lease OCS–G 23770, located 41 miles from the nearest Louisiana shoreline.	2/24/2011
Apache Corporation, Structure Removal, SEA ES/SR 11–041.	Eugene Island, Block 175, Lease OCS 00438, located 43 miles from the nearest Louisiana shoreline.	2/25/2011
Apache Corporation, Structure Removal, SEA ES/SR 11–042.	Eugene Island, Block 224, Lease OCS–G 05504, located 67 miles from the nearest Louisiana shoreline.	2/25/2011
Millennium Offshore Group, Inc., Structure Removal, SEA ES/SR 11–038.	High Island, Block 53, Lease OCS–G 20658, located 20 miles from the nearest Louisiana shoreline.	2/25/2011
Unocal Pipeline Company, Structure Removal, SEA ES/SR 11–035.	Ship Shoal, Block 208, Right-of-Way (ROW)–G 01691, located 34 miles from the nearest Louisiana shoreline.	2/25/2011
Nippon Oil Exploration U.S.A. Limited, Structure Removal, SEA ES/SR 11–018.	South Timbalier, Block 186, Lease OCS–G 15323, located 35 miles from the nearest Louisiana shoreline.	2/25/2011
Energy Resource Technology GOM, Inc., Structure Removal, SEA ES/SR 11–022.	Brazos, Block 436, Lease OCS–G 04258, located 14 miles from the nearest Texas shoreline.	3/1/2011
Apache Corporation, Structure Removal, SEA ES/SR 11–037.	Mustang Island, Block 762, Lease OCS–G 03021, located 33 miles from the nearest Texas shoreline.	3/1/2011
Fairways Offshore Exploration, Inc., Structure Removal, SEA ES/SR 11–029 & 11–030.	Chandeleur, Block 29, Lease OCS–G 05740, located 13 miles from the nearest Louisiana shoreline.	3/2/2011
Chevron U.S.A. Inc., Structure Removal, SEA ES/SR 11–028.	South Marsh Island, Block 217, Lease 00310, located 15 miles from the nearest Louisiana shoreline.	3/2/2011
Maritech Resources, Inc., Structure Removal, SEA ES/SR 11–057.	Eugene Island, Block 116, Lease OCS 00478, located 30 miles from the nearest Louisiana shoreline.	3/3/2011
Maritech Resources, Inc., Structure Removal, SEA ES/SR 11–055 & 11–056.	Eugene Island, Block 129, Lease OCS–G 30029, located 38 miles from the nearest Louisiana shoreline.	3/3/2011
Apache Corporation, Structure Removal, SEA ES/SR 11–043.	Eugene Island, Block 158, Lease OCS–G 01220, located 40 miles from the nearest Louisiana shoreline.	3/3/2011
Mariner Energy, Inc., Structure Removal, SEA ES/SR 11–044.	High Island, Block A 415, Lease OCS–G 15793, located 70 miles from the nearest Louisiana shoreline.	3/3/2011
Apache Corporation, Structure Removal, SEA ES/SR 11–045.	South Marsh Island, Block 71, Lease OCS–G 11911, located 72 miles from the nearest Louisiana shoreline.	3/3/2011
Energy Partners, Ltd., Structure Removal, SEA ES/SR 11–048 & 11–049.	West Cameron, Block 252, Lease OCS–G 27793, located 51 miles from the nearest Louisiana shoreline.	3/3/2011
Maritech Resources, Inc., Structure Removal, SEA ES/SR 11–052.	Eugene Island, Block 129, Lease OCS–G 30029, located 38 miles from the nearest Louisiana shoreline.	3/4/2011
Maritech Resources, Inc., Structure Removal, SEA ES/SR 11–053 & 11–054.	Eugene Island, Block 129, Lease OCS–G 30029, located 38 miles from the nearest Louisiana shoreline.	3/4/2011
Century Exploration New Orleans, Inc., Structure Removal, SEA ES/SR 11–046.	West Cameron, Block 369, Lease OCS–G 22544, located 63 miles from the nearest Louisiana shoreline.	3/4/2011
Stone Energy Corporation, Structure Removal, SEA ES/SR 11–051.	Eugene Island, Block 243, Lease OCS–G 02899, located 48 miles from the nearest Louisiana shoreline.	3/7/2011
Rosetta Resources Offshore, LLC, Structure Removal, SEA ES/SR 11–066.	East Cameron, Block 89, Lease OCS–G 00935, located 23 miles from the nearest Louisiana shoreline.	3/9/2011
Energy Resource Technology GOM, Inc., Structure Removal, SEA ES/SR 11–027.	Vermilion, Block 100, Lease OCS–G 22616, located 20 miles from the nearest Louisiana shoreline.	3/9/2011
Bandon Oil and Gas, LP, Structure Removal, SEA ES/SR 11–032 & 11–033.	High Island, Block A–517, Lease OCS–G 03481, located 88 miles from the nearest Texas shoreline.	3/10/2011
Rosetta Resources Offshore, LLC, Structure Removal, SEA ES/SR 11–063, 11–064 & 11–065.	East Cameron, Block 89, Lease OCS–G 00935, located 23 miles from the nearest Louisiana shoreline.	3/11/2011
Rosetta Resources Offshore, LLC, Structure Removal, SEA ES/SR 11–061 & 11–062.	East Cameron, Block 88, Lease OCS–G 14357, located 24 miles from the nearest Louisiana shoreline.	3/16/2011
Apache Corporation, Structure Removal, SEA ES/SR 11–071.	North Padre Island, Block 892, Lease RUE OCS–G 22003, located 31 miles from the nearest Texas shoreline.	3/18/2011
Shell Offshore Inc., Exploration Plan, SEA S–7445	Located in the Central Planning Area of the Gulf of Mexico	3/21/2011
Rosetta Resources Offshore, LLC, Structure Removal, SEA ES/SR 11–060.	South Pelto, Block 17, Lease OCS–G 14533, located 18 miles from the nearest Louisiana shoreline.	3/24/2011
Sojitz Energy Venture, Inc., Structure Removal, SEA ES/SR 11–077.	Vermilion, Block 70, Lease OCS–G 22609, located 15 miles from the nearest Louisiana shoreline.	3/24/2011
WesternGeco, Geological & Geophysical Survey, SEA L10–045.	Located in the Central Planning Area of the Gulf of Mexico	3/24/2011
WesternGeco, Geological & Geophysical Survey, SEA L11–006.	Located in the Central Planning Area of the Gulf of Mexico	3/25/2011
XTO Offshore Inc., Structure Removal, SEA ES/SR 06–69A & 06–070A.	Brazos, Block 415, Lease OCS–G 23162, located 25 miles from the nearest Texas shoreline.	3/28/2011
Seneca Resources Corporation, Structure Removal, SEA ES/SR 11–067.	Eugene Island, Block 271, Lease OCS–G 15257, located 78 miles from the nearest Louisiana shoreline.	3/28/2011
Noble Energy, Inc., Structure Removal, SEA ES/SR 11–069 & 11–070.	Brazos, Block A52, Lease OCS–G 6085, located 51 miles from the nearest Texas shoreline.	3/29/2011
Chevron U.S.A. Inc., Structure Removal, SEA ES/SR 11–080.	Grand Isle, Block 37, Lease OCS–G 00392, located 7 miles from the nearest Louisiana shoreline.	3/29/2011
Nippon Oil Exploration U.S.A. Limited, Structure Removal, SEA ES/SR 11–017.	South Marsh Island, Block 244, Lease OCS–G 02596, located 15 miles from the nearest Louisiana shoreline.	3/29/2011
McMoRan Oil & Gas LLC, Structure Removal, SEA ES/SR 11–073 & 11–074.	Eugene Island, Block 202, Lease OCS–G 04599, located 54 miles from the nearest Louisiana shoreline.	3/30/2011

Activity/operator	Location	Date
XTO Offshore Inc., Structure Removal, SEA ES/SR 11–072.	Matagorda Island, Block 631, Lease OCS–G 14792, located 18 miles from the nearest Texas shoreline.	3/30/2011
Apache Corporation, Structure Removal, SEA ES/SR 11–081 & 95–070A.	Eugene Island, Block 128, Lease OCS 00053, located 30 miles from the nearest Louisiana shoreline.	3/31/2011
Chevron U.S.A. Inc., Structure Removal, SEA ES/SR 11–078 & 11–079.	Grand Isle, Block 037, Lease OCS 00392, located 7 miles from the nearest Louisiana shoreline.	3/31/2011

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about SEAs and FONSIs prepared by the Gulf of Mexico OCS Region are encouraged to contact BOEMRE at the address or telephone listed in the **FOR FURTHER INFORMATION CONTACT** section.

Dated: May 31, 2011

Lars Herbst,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 2011–16560 Filed 6–30–11; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management, Regulation and Enforcement

Gulf of Mexico (GOM), Outer Continental Shelf (OCS), Central Planning Area (CPA), Oil and Gas Lease Sale for the 2007–2012 5-Year OCS Program

AGENCY: Bureau of Ocean Energy Management, Regulation and Enforcement (BOEMRE), Interior.

ACTION: Notice of Availability (NOA) of a Draft Supplemental Environmental Impact Statement (SEIS) and Public Meetings.

Authority: This NOA is published pursuant to the regulations (40 CFR 1503) implementing the provisions of the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.* (1988)).

SUMMARY: BOEMRE has prepared a Draft SEIS on an oil and gas lease sale tentatively scheduled in mid-2012 for CPA consolidated Lease Sale 216/222, which is the final CPA lease sale in the 2007–2012 5-Year OCS Program. The proposed sale is in the Gulf of Mexico's CPA off the States of Louisiana, Mississippi, and Alabama. This Draft SEIS updates the environmental and socioeconomic analyses for the CPA Lease Sale 216/222, originally evaluated in the Gulf of Mexico OCS Oil and Gas Lease Sales: 2007–2012; WPA Sales 204, 207, 210, 215, and 218; Central Planning Area (CPA) Sales 205, 206, 208, 213, 216, and 222, Final EIS (OCS EIS/EA MMS 2007–018) (Multisale EIS), completed in April 2007. This Draft SEIS also updates the environmental and socioeconomic analyses for the CPA Lease Sale 216/222 in the GOM OCS Oil and Gas Lease Sales: 2009–2012; CPA Sales 208, 213, 216, and 222; WPA Sales 210, 215, and 218; Final Supplemental EIS (OCS EIS/EA MMS 2008–041) (2009–2012 SEIS), completed in September 2008.

SUPPLEMENTARY INFORMATION: BOEMRE developed the Draft SEIS for CPA Lease Sale 216/222 to consider new information made available since completion of the Multisale EIS and 2009–2012 SEIS, including information concerning the *Deepwater Horizon* event and spill and new regulatory requirements. This Draft SEIS provides updates on the baseline conditions and potential environmental effects of oil and natural gas leasing, exploration, development, and production in the CPA. BOEMRE conducted an extensive search for new information from scientific journals; interviews with personnel from academic institutions; Federal, State, and local agencies; and various other sources. BOEMRE has reexamined potential impacts of routine activities and accidental events, including a possible large-scale event, associated with the proposed CPA lease sale. BOEMRE has also re-analyzed the proposed lease sale's incremental contribution to the cumulative impacts on environmental and socioeconomic resources. Like the Multisale EIS and the 2009–2012 SEIS, the oil and gas resource estimates and scenario information for this Draft SEIS are presented as a range that would encompass the resources and activities estimated for this proposed lease sale.

Draft Supplemental EIS Availability

To obtain a single printed or CD–ROM copy of the Draft SEIS for CPA Lease Sale 216/222, you may contact BOEMRE, Gulf of Mexico OCS Region, Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394 (1–800–200–GULF). An electronic copy of the Draft SEIS (as well as links to the Multisale EIS and the 2009–2012 SEIS) is available at BOEMRE's Internet Web site at *http://www.gomr.boemre.gov/homepg/regulate/environ/nepa/nepaprocess.html.* The CD–ROM version of the Draft SEIS also contains copies of the Multisale EIS and the 2009–2012 SEIS. Several libraries along the Gulf Coast have been sent copies of the Draft SEIS. To find out which libraries and their locations have copies of the Draft SEIS for review, you may contact BOEMRE's Public Information Office or visit BOEMRE's Internet Web site at *http://www.gomr.boemre.gov/homepg/regulate/environ/libraries.html.*

Comments

Federal, State, and local government agencies and other interested parties are requested to send their written comments on the Draft SEIS in one of the following two ways:

1. In written form enclosed in an envelope labeled ''Comments on the CPA Lease Sale 216/222 Draft Supplemental EIS'' and mailed (or hand carried) to the Regional Supervisor, Leasing and Environment (MS 5410), Bureau of Ocean Energy Management, Regulation and Enforcement, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

2. Electronically to the BOEMRE e-mail address: *CPASupplementalEIS@boemre.gov*. Comments should be submitted no later than 45 days from the publication of this NOA.

Public Meetings

BOEMRE will hold public meetings to obtain additional comments and information regarding the Draft SEIS. These meetings are scheduled as follows:

- August 2, 2011—Bureau of Ocean Energy Management, Regulation and Enforcement, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123, beginning at 1 p.m. C.D.T.;
- August 9, 2011—Houston Airport Marriott at George Bush Intercontinental, 18700 John F. Kennedy Boulevard, Houston, Texas 77032, beginning at 1 p.m. C.D.T.; and
- August 11, 2011—Renaissance Mobile Riverview Plaza Hotel, 64 South Water Street, Mobile, Alabama 36602, beginning at 1 p.m. C.D.T, and a second meeting beginning at 6 p.m. C.D.T.

FOR FURTHER INFORMATION CONTACT: For more information on the Draft SEIS or the public meetings, you may contact Mr. Gary D. Goeke, Bureau of Ocean Energy Management, Regulation and Enforcement, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard (MS 5412), New Orleans, Louisiana 70123–2394, or by e-mail at *CPASupplementalEIS@boemre.gov*. You may also contact Mr. Goeke by telephone at (504) 736–3233.

Dated: June 6, 2011.

Robert P. LaBelle,

Acting Associate Director for Offshore Energy and Minerals Management.

[FR Doc. 2011–16565 Filed 6–30–11; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–FHC–2011–N137; 94300–1122–0000–Z2]

Wind Turbine Guidelines Advisory Committee; Announcement of Public Meeting and Webcast

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of public meeting and webcast.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), will host a Wind Turbine Guidelines Advisory Committee (Committee) meeting in-person and via webcast. The meeting and webcast are open to the public. The meeting agenda will include a presentation and discussion of the Service's Draft Land-Based Wind Energy Guidelines.

DATES: The meeting and webcast will take place over 2 days: On July 20, from 8:30 a.m. to 5 p.m., and on July 21, from 8:30 a.m. to 12 p.m. Eastern Time. If you are a member of the public wishing to attend in person or participate via webcast, you must register online no later than July 13, 2011 (*see* ''Meeting Participation Information'' under **SUPPLEMENTARY INFORMATION**).

ADDRESSES: *Meeting Location:* Holiday Inn Ballston, 4610 N Fairfax Drive, Arlington, VA 22203. (*See* ''Meeting Location Information'' under **SUPPLEMENTARY INFORMATION**). Instructions for webcast participants will be given upon registration.

FOR FURTHER INFORMATION CONTACT: Rachel London, Division of Habitat and Resource Conservation, U.S. Fish and Wildlife Service, U.S. Department of the Interior, (703) 358–2161.

SUPPLEMENTARY INFORMATION:

Background

On March 13, 2007, the Department of the Interior published a notice of establishment of the Committee in the **Federal Register** (72 FR 11373). The Committee's purpose is to provide advice and recommendations to the Secretary of the Interior (Secretary) on developing effective measures to avoid or minimize impacts to wildlife and their habitats related to land-based wind energy facilities. All Committee members serve without compensation. In accordance with the Federal Advisory Committee Act (5 U.S.C. App.), a copy of the Committee's charter is filed with the Committee Management Secretariat, General Services Administration; Committee on Environment and Public Works, U.S. Senate; Committee on Natural Resources, U.S. House of Representatives; and the Library of Congress. The Secretary appointed 22 individuals to the Committee on October 24, 2007, representing the varied interests associated with wind energy development and its potential impacts to wildlife species and their habitats. The Committee provided its recommendations to the Secretary on March 4, 2010.

Draft Land-Based Wind Energy Guidelines

The Draft Land-Based Wind Energy Guidelines were made available for public comment on February 18, 2011, with a comment-period ending date of May 19, 2011 (76 FR 9590). The purpose of the Guidelines, once finalized, will be to provide recommendations on measures to avoid, minimize, and compensate for effects to fish, wildlife, and their habitats.

Meeting Location Information

Please note that the meeting location is accessible to wheelchair users. If you require additional accommodations, please notify us at least 1 week in advance of the meeting.

Meeting Participation Information

All Committee meetings are open to the public. The public has an opportunity to comment at all Committee meetings.

We require that all persons planning to attend in person or participate via webcast register at *http://www.fws.gov/windenergy* no later than July 13, 2011. We will give preference to registrants based on date and time of registration. Limited standing room at the meeting may be available if all seats are filled.

Date: June 27, 2011.

Rachel London,

Alternate Designated Federal Officer, Wind Turbine Guidelines Advisory Committee.

[FR Doc. 2011–16527 Filed 6–30–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Draft Environmental Impact Statement for the Proposed Los Coyotes Band of Cahuilla and Cupeño Indians' 23-Acre Fee-to-Trust Transfer and Casino-Hotel Project, City of Barstow, San Bernardino County, CA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Availability.

SUMMARY: The Bureau of Indian Affairs (BIA) as lead agency, with the Los Coyotes Band of Cahuilla and Cupeño Indians, National Indian Gaming Commission (NIGC), U.S. Environmental Protection Agency (USEPA), and the City of Barstow as cooperating agencies, intends to file a Draft Environmental Impact Statement (DEIS) with the USEPA for the Los Coyotes Band of Cahuilla and Cupeño Indians Fee-to-Trust and Casino-Hotel Project proposed to be located within the City of Barstow, San Bernardino County, California. This notice also announces that the DEIS is now available for public review and the date, time, and location of a public hearing to receive comments on the DEIS.

DATES: The DEIS will be available for public comment on July 1, 2011. Written comments on the DEIS must arrive by September 14, 2011. The public hearing will be held on July 27, 2011, starting at 6 p.m. and will run until the last public comment is received.

ADDRESSES: The public hearing will be held at the Barstow Community College Gymnasium, 2700 Barstow Road, Barstow, California.

You may mail or hand-deliver comments to Amy Dutschke, Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825. See the **SUPPLEMENTARY INFORMATION** section of this notice for locations where the DEIS is available for review and for directions on submitting comments.

FOR FURTHER INFORMATION CONTACT: John Rydzik, Bureau of Indian Affairs, Pacific Regional Office, 2800 Cottage Way, Sacramento, California 95825, *Telephone:* (916) 978–6051.

SUPPLEMENTARY INFORMATION: Public review of the DEIS is part of the administrative process for the evaluation of tribal applications seeking to have the United States take land into trust for gaming pursuant under 25 U.S.C. 465, 25 CFR part 151, 29 CFR part 292, and 25 U.S.C. 2719(b)(1)(B). Pursuant to Council on Environmental Quality (CEQ) National Environmental Policy Act (NEP A) regulations (40 CFR 1506.10), the publication of this Notice of Availability in the **Federal Register** initiates the 75-day public comment period and thereby grants a 30-day extension to the normal 45-day public comment period.

Background

The Los Coyotes Band of Cahuilla and Cupeño Indians (Tribe) has requested that the BIA take into trust 23 acres of land currently held in fee by the Tribe, on which the Tribe proposes to construct a gaming facility, hotel, parking areas and other facilities. The approximately 23.1-acre project site is located within the incorporated boundaries of the City of Barstow, San Bernardino County, California, just east of Interstate 15. The parcels are located within Section 27, Township 9N, Range 2W, San Bernardino Base Meridian (SBM), as depicted on the Barstow, U.S. Geological Survey (USGS) topographic quadrangle. The project site consists of the following assessor's parcel numbers (APNs): 428–171–66, 428–171–67, and 428–171–68.

The proposed project includes the development of a casino with approximately 57,070 square feet of gaming floor. Associated facilities would include food and beverage services, retail space, banquet/meeting space, and administration space. Food and beverage facilities would include two full service restaurants, a drive-in restaurant, a buffet, a coffee shop, three service bars, and a lounge. The hotel tower would have approximately 100 rooms and a full-service restaurant. Both the gaming facility and the hotel would be open 24 hours a day, seven days a week. A total of 1,405 parking spaces would be provided.

The following alternatives are considered throughout the DEIS: (A) Barstow casino and hotel complex project, (B) Barstow Reduced Casino Hotel Complex (Proposed Project described above), (C) a reduced-intensity casino at a 19-acre site within the Los Coyotes Reservation, (D) a non-gaming alternative, specifically the development of a campground facility within the Los Coyotes, and (E) a no-action alternative. Environmental issues addressed in the DEIS include land resources, water resources, air quality, biological resources, cultural resources, socioeconomic conditions, environmental justice, transportation, land use, agriculture, public services, noise, hazardous materials, visual resources, cumulative effects, indirect effects, growth inducing effects and mitigation measures.

The BIA serves as the Lead Agency for compliance with NEPA (42 U.S.C. 4321 *et seq.*), with the NIGC, the USEPA, City of Barstow, and the Tribe serving as Cooperating Agencies. A public scoping meeting for the EIS was held by the BIA on May 4, 2006, at the Barstow Community College Gymnasium in Barstow, California.

Directions for Submitting Comments: Please include your name, return address, and the caption, ''DEIS Comments, Los Coyotes Band of Cahuilla and Cupeño Indians Fee-to-Trust and Casino-Hotel Project,'' on the first page of your written comments.

Locations Where the DEIS Is Available for Review: The DEIS will be available for review at the following locations:

Location	Address	General Information, phone number
San Bernardino County Public Library—Barstow, Barstow Branch	304 East Buena Vista, Barstow, California 92311	(760) 256–4850.
San Diego County Public Library—Borrego Springs	587 Palm Canyon, #125, Borrego Springs, California 92004	(760) 767–5761.

The DEIS is also available on the following Web site: *http://www.loscoyoteseis.com.*

To obtain a compact disk copy of the DEIS, please provide your name and address in writing or by voice-mail to John Rydzik, Chief of the Division of Environmental, Cultural Resources Management and Safety listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Note however, individual paper copies of the DEIS will be provided upon payment of applicable printing expenses by the requestor for the number of copies requested.

Public Comment Availability: Comments, including names and addresses of respondents, will be available for public review at the BIA mailing address shown in the **ADDRESSES** section of this notice, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, telephone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: This notice is published pursuant to Sec. 1503.1 of the Council of Environmental Quality Regulations (40 CFR parts 1500 through 1508) and Sec. 46.305 of the Department of Interior Regulations (43 CFR part 46), implementing the procedural requirements of the NEPA of 1969, as amended (42 U.S.C. 4371, *et seq.*), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: June 15, 2011.

Jodi Gillette,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 2011–16364 Filed 6–30–11; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–12418, AA–12419; LLAK965000–L14100000–KC0000–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Decision Approving Lands for Conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that the Bureau of Land Management (BLM) will issue an appealable decision to Bristol Bay Native Corporation. The decision approves conveyance of the surface and subsurface estates in the lands described below pursuant to the Alaska Native Claims Settlement Act. The lands are in the vicinity of Port Heiden, Alaska, and are located in:

Seward Meridian, Alaska

T. 40 S., R. 57 W.,

Secs. 18 to 21, inclusive;
Secs. 25 to 30, inclusive.

Containing approximately 6,389 acres.

T. 40 S., R. 58 W.,
Secs. 2 to 18, inclusive;
Secs. 20 to 24, inclusive.

Containing approximately 12,855 acres.
Aggregating approximately 19,244 acres.

Notice of the decision will also be published four times in the *Bristol Bay Times.*

DATES: Any party claiming a property interest in the lands affected by the decision may appeal the decision within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until August 1, 2011 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

3. Notices of appeal transmitted by electronic means, such as facsimile or e-mail, will not be accepted as timely filed.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from:

Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The BLM by phone at 907–271–5960 or by e-mail at *ak.blm.conveyance@blm.gov.* Persons who use a Telecommunications Device for the Deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the BLM during normal business hours. In addition, the FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the BLM. The BLM will reply during normal business hours.

Steve Grimes,

Realty Specialist, Land Transfer Adjudication II Branch.

[FR Doc. 2011–16653 Filed 6–30–11; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Call for Nominations for Appointment of Primary and Alternate Representatives, Santa Rosa and San Jacinto Mountains National Monument Advisory Committee; California

AGENCY: Bureau of Land Management, Interior; and U.S. Forest Service, Agriculture.

ACTION: Notice.

SUMMARY: This notice constitutes an open call to the public to submit nomination applications for positions on the Santa Rosa and San Jacinto Mountains National Monument Advisory Committee.

DATES: Nomination applications must be submitted to the address listed below no later than September 29, 2011.

ADDRESSES: Santa Rosa and San Jacinto Mountains National Monument Office, Attn: National Monument Manager, Advisory Committee Nomination Application, 1201 Bird Center Drive, Palm Springs, California 92262.

FOR FURTHER INFORMATION CONTACT: Jim Foote, National Monument Manager, Santa Rosa and San Jacinto Mountains National Monument, telephone (760) 833–7136; e-mail *jfoote@ca.blm.gov.*

SUPPLEMENTARY INFORMATION: Please submit nomination applications for the following positions on the Santa Rosa and San Jacinto Mountains National Monument Advisory Committee.

Primary Representatives

- Representative of the City of Palm Desert.
- Representative of the City of Rancho Mirage.
- Representative of the Agua Caliente Band of Cahuilla Indians.
- Representative of the Pinyon Community Council.
- Representative with expertise in natural science and research selected from a regional college or university.

Alternate Representatives

- Alternate representative of the City of Palm Desert.
- Alternate representative of the City of Rancho Mirage.
- Alternate representative of the Agua Caliente Band of Cahuilla Indians.
- Alternate representative of the Pinyon Community Council.
- Alternate representative with expertise in natural science and research selected from a regional college or university.

In accordance with the Santa Rosa and San Jacinto Mountains National Monument Act of 2000 (Pub. L. 106–351), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly established an advisory committee for the Santa Rosa and San Jacinto Mountains National Monument under the provisions of the Federal Advisory Committee Act. The purpose of the National Monument Advisory Committee (MAC) is to advise the Secretaries with respect to preparation and implementation of the National Monument Management Plan.

The MAC holds public meetings at least once per year. The Designated Federal Official, or his/her designee, may convene additional meetings as necessary. All MAC members are volunteers serving without pay, but will be reimbursed for travel and per diem expenses at the current rates for government employees in accordance with 5 U.S.C. 5703, when appropriate. Members of the MAC may be reappointed upon expiration of the member's current term.

All applicants must be citizens of the United States. Members are appointed by the Secretary of the Interior with concurrence by the Secretary of Agriculture. Applicants must be qualified through education, training, knowledge, or experience to give informed advice regarding an industry, discipline, or interest to be represented. The Obama Administration prohibits individuals who are currently federally registered lobbyists to serve on all FACA and non-FACA boards, committees, or councils.

There is no limit to the number of nomination applications which may be submitted for each open position. Any individual may nominate himself or herself for appointment. Completed nomination applications must include letters of reference and/or recommendations from the represented interests or organizations, and any other information explaining the nominee's qualifications (*e.g.,* resume, curriculum vitae).

Nomination application packages are available at the Santa Rosa and San Jacinto Mountains National Monument Office, 1201 Bird Center Drive, Palm Springs, California; through the Santa Rosa and San Jacinto Mountains National Monument Web site at *http://www.blm.gov/ca/st/en/info/rac/srsjmac.html;* via telephone request at (760) 833–7100; by written request from the Santa Rosa and San Jacinto Mountains National Monument Manager at the following address: Santa

Rosa and San Jacinto Mountains National Monument Office, *Attn:* National Monument Manager, Advisory Committee Nomination Application Request, 1201 Bird Center Drive, Palm Springs, California 92262; or through an e-mail request at *jfoote@ca.blm.gov.*

Each application package must include forms from the Department of the Interior and Department of Agriculture. All submitted nomination applications become the property of the Department of the Interior, Bureau of Land Management, Santa Rosa and San Jacinto Mountains National Monument, and will not be returned. Nomination applications are good only for the current open public call for nominations.

John R. Kalish,

Field Manager, Palm Springs-South Coast Field Office, California Desert District, Bureau of Land Management.

Laurie Rosenthal,

District Ranger, San Jacinto Ranger District, San Bernardino National Forest, Forest Service.

[FR Doc. 2011–16520 Filed 6–30–11; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO921000–L13200000–EL0000, COC–74817]

Notice of Invitation—Coal Exploration License Application COC–74817

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Members of the public are hereby invited to participate with Blue Mountain Energy, Inc. on a pro rata cost-sharing basis in a program for the exploration of coal deposits owned by the United States of America in lands located in Moffat and Rio Blanco Counties, Colorado.

DATES: Any party electing to participate in this exploration program must send written notice to both the Bureau of Land Management (BLM) and Blue Mountain Energy, Inc., as provided in the **ADDRESSES** section below no later than August 1, 2011 or 10 calendar days after the last publication of this Notice in the *Rangely Times* newspaper, whichever is later. This Notice will be published once a week for 2 consecutive weeks in the *Rangely Times,* Rangely Colorado. Such written notice must refer to serial number COC 74817.

ADDRESSES: The proposed exploration license and plan is available for review from 9 a.m. to 4 p.m., Monday through Friday in the BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado, and the BLM White River Field Office, 220 E. Market St., Meeker, Colorado.

A written notice to participate in the exploration license should be sent to the State Director, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215 and Blue Mountain Energy, Inc., *Attn:* Jeffrey Dubbert, 3607 County Rd. #65, Rangley, Colorado 81648.

FOR FURTHER INFORMATION CONTACT: Kurt M. Barton by telephone at 303–239–3714 or by e-mail at *kbarton@blm.gov;* or Paul Daggett by telephone at 970–878–3819, or by e-mail at *pdaggett@blm.gov.*

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The exploration activities will be performed pursuant to the Mineral Leasing Act of 1920, as amended, 30 U.S.C. 201(b), and to the regulations at 43 CFR part 3410. The purpose of the exploration program is to gain additional geologic knowledge of the coal underlying the exploration area for the purpose of assessing the coal resources. The exploration program is fully described and will be conducted pursuant to an exploration license and plan approved by the BLM. The exploration plan may be modified to accommodate the legitimate exploration needs of persons seeking to participate. The lands to be explored for coal deposits in exploration license COC 74817 are described as follows:

Sixth Principal Meridian, Colorado

T. 3 N., R. 101 W.,
Sec. 17, S½;SW¼;
Sec. 18, SE¼, and E½SW¼;
Sec. 19, NE¼, E½NW¼, SW¼NW¼, SW¼, and NW¼SE¼.
T. 3 N., R. 102 W.,
Sec. 24, SE¼, S¼NE¼, E½SW¼, and SE¼NW¼;
Sec. 25, NE¼, and E½NW¼.

These lands contain 1,375 acres, more or less.

The proposed exploration program will be conducted pursuant to an exploration plan to be approved by the BLM. The plan may be modified to accommodate the legitimate exploration needs of persons seeking to participate.

The foregoing is published in the **Federal Register** pursuant to 43 CFR 3410.2–1(c)(1).

Helen M. Hankins,

State Director.

[FR Doc. 2011–16521 Filed 6–30–11; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAD070000, L91310000, EI0000]

Notice of Availability of the Draft Environmental Impact Statement for the West Chocolate Mountains Renewable Energy Evaluation Area, Imperial Valley, California, and the Draft California Desert Conservation Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLPMA), the Bureau of Land Management (BLM) has prepared a Draft California Desert Conservation Area (CDCA) Plan Amendment, and a Draft Environmental Impact Statement (EIS) for the West Chocolate Mountains Renewable Energy Evaluation Area. By this notice, the BLM is announcing the opening of the comment period.

DATES: To ensure that comments will be considered, the BLM must receive written comments on the Draft CDCA Plan Amendment and Draft EIS within 90 days following the date the Environmental Protection Agency publishes its Notice of Availability for the Draft EIS in the **Federal Register**. The BLM will announce future meetings or hearings and any other public involvement activities at least 15 days in advance through public notices, media releases, and/or mailings.

ADDRESSES: You may submit comments related to the West Chocolate Mountains Renewable Energy Evaluation Area by any of the following methods:

- *E-mail: wcm_comments@blm.gov.*
- *Fax:* (951) 697–5299.
- *Mail:* Bureau of Land Management, California Desert District Office, 22835 Calle San Juan de Los Lagos, Moreno Valley, California 92533–9046, Attn: Peter Godfrey.

Copies of the Draft EIS and Draft CDCA Plan Amendment for the West Chocolate Mountains Renewable Energy Evaluation Area are available in the

California Desert District Office at the above address; at the El Centro Field Office at 1661 S. 4th Street, El Centro, California; and the Palm Springs-South Coast Field Office at 1201 Bird Center Drive, Palm Springs, California.

FOR FURTHER INFORMATION CONTACT: Joseph Vieira, BLM Project Manager, telephone (719) 852–6213; or e-mail *jvieira@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Draft EIS analyzes the potential environmental impacts associated with amending the CDCA Plan to make available approximately 20,762 acres of BLM-managed surface lands (acquired lands included) for solar, wind and geothermal testing and development in a renewable energy evaluation area located near Niland, California. The Draft EIS also analyzes the potential environmental impacts of approving a pending geothermal lease application within the renewable energy evaluation area.

This CDCA Draft Plan Amendment/Draft EIS analyzes 6 alternatives, including (1) No Action Alternative (the CDCA Plan would not be amended, and existing plan decisions, stipulations, and allocations would not change as a direct result of this planning process), (2) No Development Alternative, (3) Renewable Energy Development Emphasis, (4) Geothermal Development Only, (5) Solar Development Emphasis with Moderate Geothermal Development and No Wind Development, and (6) Geothermal Development Emphasis with Moderate Solar Development and No Wind Development. If an alternative is selected that establishes the evaluation area as available for solar energy development, it will be identified as a solar energy zone.

The principal issues identified thus far include Native American concerns; potential land use conflicts including recreation; cumulative impacts considering existing, proposed, and potential geothermal projects in the area; and potential impacts on cultural resources, wildlife, visual resources, and surface and groundwater resources. The Draft EIS also addresses geology, mining, geothermal resources, vegetation, threatened or endangered species, air quality, noise, transportation, human health and safety, and social and economic issues, as well as other issues raised during the scoping process.

The Draft EIS identifies stipulations and mitigation measures that could be applied to future energy projects. This document will not authorize any specific energy developments at this time. Additional project-specific environmental analyses would need to be conducted before on-the-ground development activities could occur.

The BLM, in compliance with FLPMA, NEPA, and all other relevant Federal laws, Executive orders, and management policies of the BLM, used an interdisciplinary approach in developing the EIS, working collaboratively in order to consider the variety of resource issues and concerns identified.

Please note that public comments and information submitted including names, street addresses, and e-mail addresses of persons who submit comments will be available for public review and disclosure at the above address during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 1506.10, and 43 CFR 1610.2.

Teresa Raml,

California Desert District Manager.

[FR Doc. 2011–16556 Filed 6–30–11; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAZ956000.L14200000.BJ0000.241A]

Notice of Filing of Plats of Survey; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey; Arizona.

SUMMARY: The plats of survey of the described lands were officially filed in the Arizona State Office, Bureau of Land Management, Phoenix, Arizona, on dates indicated.

SUPPLEMENTARY INFORMATION:

The Gila and Salt River Meridian, Arizona

The plat representing the amended protraction diagram of partially surveyed Township 30 North, Range 6 East, accepted April 5, 2011, and officially filed April 8, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of partially surveyed Township 31 North, Range 6 East, accepted April 5, 2011, and officially filed April 8, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of partially surveyed Township 32 North, Range 6 East, accepted April 7, 2011, and officially filed April 8, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 32½ North, Range 6 East, accepted April 11, 2011, and officially filed April 13, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 33 North, Range 6 East, accepted April 11, 2011, and officially filed April 13, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 30 North, Range 7 East, accepted April 5, 2011, and officially filed April 8, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 31 North, Range 7 East, accepted April 7, 2011, and officially filed April 8, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing amended protraction diagram of Township 32 North, Range 7 East, accepted April 7,

2011, and officially filed April 8, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 32½ North, Range 7 East, accepted April 11, 2011, and officially filed April 13, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 33 North, Range 7 East, accepted April 11, 2011, and officially filed April 13, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat (in 2 sheets) representing the establishment of the southwest and northwest township corners and an electronic control monument, Township 36 North, Range 7 East, accepted March 29, 2011, and officially filed March 31, 2011, for Group 1080, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 36 North, Range 7 East, accepted April 20, 2011, and officially filed April 21, 2011, for Group 1080, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat (in 2 sheets) representing the establishment of the southeast, southwest, northeast and northwest township corners and an electronic control monument, Township 37 North, Range 7 East, accepted March 29, 2011, and officially filed March 31, 2011, for Group 1080, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 37 North, Range 7 East, accepted April 20, 2011, and officially filed April 21, 2011, for Group 1080, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 30 North, Range 8 East, accepted April 5, 2011, and officially filed April 8, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 31 North, Range 8 East, accepted April 7, 2011, and officially filed April 8, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 32 North, Range 8 East, accepted April 11, 2011, and officially filed April 13, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 32½ North, Range 8 East, accepted April 11, 2011, and officially filed April 13, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 33 North, Range 8 East, accepted March 7, 2011, and officially filed March 11, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the dependent resurvey of the Second Guide Meridian East (east boundary) and the south boundary and the survey of the west and north boundaries and the subdivisional lines, Township 34 North, Range 8 East, accepted February 23, 2011, and officially filed February 25, 2011, for Group 1080, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the dependent resurvey of the Second Guide Meridian East (east boundary) and the survey of the west and north boundaries and the subdivisional lines, Township 35 North, Range 8 East, accepted March 2, 2011, and officially filed March 4, 2011, for Group 1080, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the establishment of the northwest township corner and an electronic control monument, Township 36 North, Range 8 East, accepted March 29, 2011, and officially filed March 31, 2011, for Group 1080, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 36 North, Range 8 East, accepted April 20, 2011, and officially filed April 21, 2011, for Group 1080, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 30 North, Range 9 East, accepted April 5, 2011, and officially filed April 8, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 31 North, Range 9 East, accepted April 7, 2011, and officially filed April 8, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 32 North, Range 9 East, accepted March 7, 2011, and officially filed March 11, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 33 North, Range 9 East, accepted April 11, 2011, and officially filed April 13, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 33½ North, Range 9 East, accepted April 11, 2011, and officially filed April 13, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 34 North, Range 9 East, accepted April 13, 2011, and officially filed April 15, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 35 North, Range 9 East, accepted April 20, 2011, and officially filed April 21, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 36 North, Range 9 East, accepted April 20, 2011, and officially filed April 21, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 33½

North, Range 10 East, accepted April 13, 2011, and officially filed April 15, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 34 North, Range 10 East accepted April 20, 2011, and officially filed April 21, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 35 North, Range 10 East, accepted April 20, 2011, and officially filed April 21, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 36 North, Range 10 East, accepted April 20, 2011, and officially filed April 21, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 33 North, Range 11 East, accepted April 13, 2011, and officially filed April 15, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing amended protraction diagram of Township 33½ North, Range 11 East, accepted April 13, 2011, and officially filed April 15, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 34 North, Range 11 East, accepted April 20, 2011, and officially filed April 21, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 35 North, Range 11 East, accepted April 20, 2011, and officially filed April 21, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 36 North, Range 11 East, accepted April 20, 2011, and officially filed April 21, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 33 North, Range 12 East, accepted April 13, 2011, and officially filed April 15, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 33½ North, Range 12 East, accepted April 13, 2011, and officially filed April 15, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 34 North, Range 12 East, accepted April 20, 2011, and officially filed April 21, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the dependent amended protraction diagram of Township 35 North, Range 12 East, accepted April 20, 2011, and officially filed April 21, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 36 North, Range 12 East, accepted April 20, 2011, and officially filed April 21, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 33 North, Range 12½ East, accepted March 7, 2011, and officially filed March 11, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 33½ North, Range 12½ East, accepted April 13, 2011, and officially filed April 15, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 34 North, Range 12½ East, accepted April 20, 2011, and officially filed April 21, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 35 North, Range 12½ East, accepted April 20, 2011, and officially filed April 21, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the amended protraction diagram of Township 36 North, Range 12½ East, accepted April 20, 2011, and officially filed April 21, 2011, for Group 1059, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the survey of the south and north boundaries, a Sectional Guide Meridian and the subdivisional lines and the subdivision of certain sections, Township 22 North, Range 14 East, accepted April 12, 2011, and officially filed April 14, 2011, for Group 1070, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the dependent resurvey of the subdivisional lines and the subdivision of section 14,Township 18 North, Range 19 East, accepted February 7, 2011, and officially filed February 9, 2011, for Group 1082, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

The plat representing the survey of a portion of the Tenth Standard Parallel North (north boundary), the south and west boundaries and the subdivisional lines, and the subdivision of certain sections, Township 40 North, Range 19 East, accepted June 2, 2011, and officially filed June 7, 2011, for Group 1077, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the dependent resurvey of the Sixth Standard Parallel North through Range 21 East and a portion of range 20 east (north boundary), the Fifth Guide Meridian East, through Township 24 North (west boundary), the east boundary and the subdivisional lines, and the subdivision of certain sections, Township 24 North, Range 21 East, accepted June 6, 2011, and officially filed June 8, 2011, for Group 1068, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of section 34 and a metes-and-bounds survey in section 34, Township 6 North, Range 29 East, accepted April 5, 2011, and officially filed April 7, 2011, for Group 1086, Arizona.

This plat was prepared at the request of the United States Forest Service.

The plat representing the dependent resurvey of the Tenth Standard Parallel North (south boundary) and the north boundary, and the survey of the subdivisional lines and the subdivision of certain sections, Township 41 North, Range 29 East, accepted February 17, 2011, and officially filed February 23, 2011, for Group 1078, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

The plat representing the metes-and-bounds survey of a portion of the Mount Tipton Wilderness Area Boundary in section 17, Township 25 North, Range 18 West, accepted April 26, 2011, and officially filed April 28, 2011, for Group 1073, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

The plat representing the survey of a portion of the south boundary, Township 10 South, Range 3 West, accepted March 21, 2011, and officially filed March 23, 2011, for Group 1091, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

The plat representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of section 3 and the metes-and-bounds survey of Parcel Number 1, within section 3, and the metes-and bounds survey of lot 5, within section 3, Township 5 South, Range 9 East, accepted February 11, 2011, and officially filed February 16, 2011, for Group 1075, Arizona.

This plat was prepared at the request of the Bureau of Indian Affairs, Western Regional Office.

This plat representing the corrective resurvey of a portion of the metes-and-bounds survey of the Aravaipa Canyon Wilderness Area Boundary, in section 7, Township 6 South, Range 18 East, accepted March 30, 2011, and officially filed March 31, 2011, for Group 860, Arizona.

This plat was prepared at the request of the Bureau of Land Management.

This plat representing the supplemental plat of the W ½ of section 7, Township 23 South, range 21 East, accepted May 23, 2011, and officially filed May 25, 2011, for Group 9105, Arizona.

This plat was prepared at the request of the United States Forest Service.

A person or party who wishes to protest against any of these surveys must file a written protest with the Arizona State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the Arizona State Office, Bureau of Land Management, One North Central Avenue, Suite 800, Phoenix, Arizona 85004–4427. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

Dated: June 22, 2011.

Danny A. West,

Chief Cadastral Surveyor of Arizona.

[FR Doc. 2011–16568 Filed 6–30–11; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO–923000 L14300000 ET0000; COC–0124534]

Notice of Public Meeting for Proposed Withdrawal Extension; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), the U.S. Department of the Interior, Bureau of Land Management (BLM) will hold a public meeting regarding the proposed Fort Carson and Pinon-Canyon Maneuver Site withdrawal extension. The U.S. Army will be present. The proposed withdrawal extension was published in the **Federal Register** (FR Doc. 2011–14151 Filed 6–7–11; 8:45 am).

DATES: The BLM will hold the public meeting on August 2, 2011, in Pueblo, Colorado.

The meeting will begin at 6 p.m. and adjourn at approximately 8 p.m. and will include an opportunity for public comment.

ADDRESSES: The public meeting will be held at the Sangre De Cristo Arts and Conference Center, 210 N. Santa Fe Ave., Pueblo, Colorado.

FOR FURTHER INFORMATION CONTACT: John D. Beck, Chief, Branch of Lands and Realty, BLM Colorado State Office, (303) 239–3882. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM, accompanied by the U.S. Army, will hold a public meeting to discuss the proposed extension of the Fort Carson and Pinon-Canyon Maneuver Site military lands withdrawal. Public Law 104–201 of September 23, 1996, (110 Stat. 2807) withdrew 3,133 acres of public lands and 11,415 acres of Federally-owned minerals from all forms of appropriation under all appropriate public land laws including mining and mineral laws, geothermal leasing laws and mineral materials disposal laws, to protect the Fort Carson military reservation. The proposed withdrawal extension also includes withdrawal of 2,517 acres of public lands and approximately 130,139 acres of federally-owned minerals from all forms of appropriation under all appropriate public land laws including mining and mineral laws, geothermal leasing laws and mineral materials disposal laws to protect the Army's Pinon-Canyon Maneuver Site. The public domain lands and minerals are in El Paso, Pueblo, Fremont, and Las Animas counties, Colorado. The extension, if approved, would withdraw these lands for an additional 15 years.

This meeting is open to the public and will include time for public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

Authority: 43 CFR 2310.3–1.

June 24, 2011.

Anna Marie Burden,

Acting State Director.

[FR Doc. 2011–16569 Filed 6–30–11; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF THE INTERIOR

National Park Service

Minor Boundary Revision at Virgin Islands National Park

AGENCY: National Park Service, Interior.

ACTION: Notification of boundary revision.

SUMMARY: Notice is hereby given that, pursuant to 16 U.S.C. 4601–9(c)(1), the boundary of the Virgin Islands National Park is modified to include an

additional 215.03 acres of land identified as Tract 04–116. The land is located at Estate Beverhourdtsberg on the Island of St. John, immediately adjacent to the current boundary of the Virgin Islands National Park. The boundary revision is depicted on Map No. 161/92,009A dated October 2010. The map is available for inspection at the following locations: National Park Service, Southeast Region Land Resources Program Center, 1924 Building, 100 Alabama Street, SW., Atlanta, Georgia 30301 and National Park Service, Department of the Interior, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: National Park Service, Chief, Southeast Region Land Resources Program Center, 1924 Building, 100 Alabama Street, SW., Atlanta, Georgia 30303, (404) 507–5664.

DATES: The effective date of this boundary revision is July 1, 2011.

SUPPLEMENTARY INFORMATION: 16 U.S.C. 4601–9(c)(1) provides that, after notifying the House Committee on Natural Resources and the Senate Committee on Energy and Natural Resources, the Secretary of the Interior is authorized to make this boundary revision upon publication of notice in the **Federal Register**. The Committees have been notified of this boundary revision. The proposed boundary revision would make a significant contribution to the purposes for which the national park was established by enabling the Service to efficiently manage and protect significant resources similar to that already protected within the present park boundary. This land includes much of the upper watershed for the Fish Bay drainage system which ultimately drains into national park waters. In addition, this land contains numerous historic sites related to the plantation era on St. John.

Dated: March 30, 2011.

Gordon Wissinger,

Acting Regional Director, Southeast Region.

[FR Doc. 2011–16644 Filed 6–30–11; 8:45 am]

BILLING CODE 4310–VP–P

DEPARTMENT OF THE INTERIOR

National Park Service

Draft General Management Plan Amendment/Environmental Impact Statement, Tumacacori National Historical Park, Arizona

AGENCY: National Park Service, Department of Interior.

ACTION: Notice of Termination of Environmental Impact Statement for the General Management Plan, Tumacacori National Historical Park, in favor of an Environmental Assessment.

SUMMARY: The National Park Service (NPS) is terminating preparation of an environmental impact statement (EIS) for the General Management Plan, Tumacacori National Historical Park, Arizona. A notice of intent to prepare the EIS for the Tumacacori National Historical Park General Management Plan was published in the January 9, 2009, **Federal Register** (Volume 74, Number 6). The National Park Service has since determined that an environmental assessment (EA) rather than an EIS is the appropriate level of environmental documentation for the plan.

SUPPLEMENTARY INFORMATION: The Tumacacori National Historical Park Boundary Revision Act of 2002 (Pub. L. 107–218) added approximately 310 acres to the boundary of the park to enhance the visitor experience at Tumacacori by developing access to these associated mission resources. A general management plan (GMP) will establish the overall management direction of the park including these new lands for the next 15 to 20 years. The plan was originally scoped as an EIS. Publication of the **Federal Register** notice was followed with a newsletter to affected agencies and interested parties, and public meetings in Nogales, Tubac, and Tucson, Arizona. Few comments were received during the scoping process. No issues with the potential for controversial impacts were identified for the general management plan.

The NPS planning team has developed three alternative management concepts for the addition lands. The ''No-Action'' concept would allow for the continuation of existing conditions, and the park would continue to be managed based on the GMP completed in 1996. This 1996 plan did not address management in the lands added to the park in 2002. Current land uses, and activities would remain, and resources would not necessarily be well protected.

Alternative 2 would focus on the restoration/rehabilitation of natural and cultural resources while providing a greater array of visitor opportunities that reflect the complex history of the Pimeria Alta, connections to the larger mission system, the significance of place, and the importance of natural resources to communities over time.

Under Alternative 3, the Santa Cruz River would provide a foundation to connect the three units in Tumacacori National Historical Park to its many communities.

In September 2010, the planning team issued a newsletter that described these alternatives. An open house was also held on October 6, 2010, to talk about the alternatives. Few comments were received on the alternatives, and none of the comments will result in substantive changes in the alternatives or raised significant impacts of the alternatives.

The two action alternatives propose only a few small facilities in areas that have been disturbed in the past. The alternatives focus primarily on improving the visitor experience, in rehabilitating the natural landscape, and in developing partnerships to improve management, resource protection, and cultural connections. Preliminary analysis of the alternatives has revealed no major or significant potential effects on the quality of the human environment, nor any potential for impairment of park resources and values. Most of the impacts of the alternatives are expected to be beneficial, while adverse impacts are expected to be mostly negligible to minor in magnitude, with the remainder being moderate.

For these reasons, the National Park Service determined that the requisite conservation planning and environmental impact analysis necessary for the general management plan can appropriately be completed through preparation of an environmental assessment.

DATES: The draft general management plan/EA is expected to be distributed for public comment in early 2012. The National Park Service will notify the public by mail, local and regional media, Web site, and other means, of public review periods and meetings associated with the draft general management plan/EA; all announcements will include information on where and how to obtain a copy of the EA, how to comment on the EA, and the length of the public comment period. All public review and other written public information will be made available online at *http://parkplanning.nps.gov/tuma.*

FOR FURTHER INFORMATION CONTACT: Lisa Carrico, Superintendent, Tumacacori National Historical Park, P.O. Box 8067, Tumacacori, Arizona 85640; telephone, (520) 398–2341; or by e-mail at *TUMA_Superintendent@nps.gov.*

Dated: May 5, 2011.

John Wessels,

Regional Director, Intermountain Region, National Park Service.

[FR Doc. 2011–16643 Filed 6–30–11; 8:45 am]

BILLING CODE 4312–DR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–638 (Third Review)]

Stainless Steel Wire Rod From India; Institution of a Five-Year Review Concerning the Antidumping Duty Order on Stainless Steel Wire Rod From India

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on stainless steel wire rod from India would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is August 1, 2011. Comments on the adequacy of responses may be filed with the Commission by September 13, 2011. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* July 1, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.— On December 1, 1993, the Department of Commerce (''Commerce'') issued an antidumping duty order on imports of stainless steel wire rod from India (58 FR 63335). Following first five-year reviews by Commerce and the Commission, effective August 2, 2000, Commerce issued a continuation of the antidumping duty order on imports of stainless steel wire rod from India (65 FR 47403). Following second five-year reviews by Commerce and the Commission, effective August 8, 2006, Commerce issued a continuation of the antidumping duty order on imports of stainless steel wire rod from India (71 FR 45023). The Commission is now conducting a third review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is India.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations and its full first and second five-year review determinations, the Commission defined the *Domestic Like Product* as all stainless steel wire rod.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like* Product, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations and its full first and second five-year review determinations, the Commission defined the *Domestic Industry* as all domestic producers of stainless steel wire rod.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register.** The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 11–5–251, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 1, 2011. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is September 13, 2011. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided In Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2005.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2010, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) Net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in short tons and value data in U.S.

dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2005, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: June 27, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–16452 Filed 6–30–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–540 and 541;Third Review]

Certain Welded Stainless Steel Pipe From Korea and Taiwan; Institution of a Five-Year Review Concerning the Antidumping Duty Orders on Certain Welded Stainless Steel Pipe From Korea and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on certain welded stainless steel pipe from Korea and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is August 1, 2011. Comments on the adequacy of responses may be filed with the Commission by September 13, 2011. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *: Effective Date:* July 1, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the *Commission's* TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*.)

The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On December 30, 1992, the Department of Commerce (''Commerce'') issued antidumping duty orders on imports of welded ASTM A–312 stainless steel pipe from Korea (57 FR 62301) and Taiwan (57 FR 62300). Following first five-year reviews by Commerce and the Commission, effective October 16, 2000, Commerce issued a continuation of the antidumping duty orders on imports of certain welded stainless steel pipe from Korea and Taiwan (65 FR 61143). Following second five-year reviews by Commerce and the Commission, effective August 28, 2006, Commerce issued a continuation of the

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 11–5–250, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

antidumping duty orders on imports of welded ASTM A–312 stainless steel pipe from Korea and Taiwan (71 FR 53412, September 11, 2006). The Commission is now conducting third reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Korea and Taiwan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations and full first five-year review determinations, the Commission defined the *Domestic Like Product* as all welded stainless steel pipes and pressure tubes, excluding grade 409 tubes and mechanical tubes (also known as ornamental tubes). Thus, in addition to welded ASTM A–312 stainless steel pipe, the *Domestic Like Product* included such tubular products as ASTM A–778 and A–358 pipes and ASTM A–249, A–269, and A–270 pressure tubes. In its full second five-year review determinations, the Commission found that a change from the original definition of the *Domestic Like Product* was appropriate and defined the *Domestic Like Product* as only welded ASTM A–312 and A–778 stainless steel pipes. For purposes of responding to this notice of institution in these third five-year reviews, please provide the requested information based on the Commission's most recent *Domestic Like Product* determination: welded ASTM A–312 and A–778 stainless steel pipes.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations and its full first five-year review determinations, the Commission defined the *Domestic Industry* as producers of welded stainless steel pipes and pressure tubes, excluding grade 409 tubes and mechanical tubes (also known as ornamental tubes). In its full second five-year review determinations, the Commission defined the *Domestic Industry* as all U.S. producers of welded ASTM A–312 and A–778 stainless steel pipes. For purposes of responding to this notice of institution in these third five-year reviews, please provide the requested information based on the Commission's most recent *Domestic Industry* determination: all domestic producers of welded ASTM A–312 and A–778 stainless steel pipes.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register.** The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. § 207, the post employment statute for Federal employees, and Commission rule 201.15(b)(19 CFR § 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR § 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 1, 2011. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited full reviews. The deadline for filing such comments is September 13, 2011. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to

the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided In Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2005.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2010, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) Net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise*

in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the Subject Merchandise in each *Subject Country* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United *States of Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country(ies)* after 2005, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country(ies),* and such merchandise from other countries.

(13) (*Optional*) A statement of whether you agree with the above definitions of the *Domestic Like Product and Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the *Commission's* rules.

By order of the Commission.

Issued: June 27, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–16449 Filed 6–30–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–253 and 731–TA–132, 252, 271, 273, 410, 532–534, and 536 (Third Review)]

Certain Pipe and Tube From Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey

Institution of five-year review concerning the countervailing duty order on welded carbon steel pipe and tube from Turkey and the antidumping duty orders on certain pipe and tube from Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey.

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the countervailing duty order on welded carbon steel pipe and tube from Turkey, the antidumping duty orders on welded carbon steel pipe and tube from India, Thailand, and Turkey, the antidumping duty orders on circular welded nonalloy steel pipe from Brazil, Korea, Mexico, and Taiwan, and the antidumping duty orders on small diameter carbon steel pipe and tube and light-walled rectangular pipe and tube from Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is August 1, 2011. Comments on the adequacy of responses may be filed with the Commission by September 13, 2011. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 201, subparts A through E (19 CFR Part 201), and Part 207, subparts A, D, E, and F (19 CFR Part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* July 1, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On the dates listed below, the Department of Commerce (''Commerce'') issued a countervailing duty order and antidumping duty orders on the subject imports:

Order date	Product/country	Inv. No.	FR cite
5/7/84	Small diameter carbon steel pipe and tube/Taiwan	731–TA–132 ...	49 FR 19369
3/7/86	Welded carbon steel pipe and tube/Turkey	701–TA–253 ...	51 FR 7984
3/11/86	Welded carbon steel pipe and tube/Thailand	731–TA–252 ...	51 FR 8341
5/12/86	Welded carbon steel pipe and tube/India	731–TA–271 ...	51 FR 17384
5/15/86	Welded carbon steel pipe and tube/Turkey	731–TA–273 ...	51 FR 17784
3/27/89	Light-walled rectangular pipe and tube/Taiwan	731–TA–410 ...	54 FR 12467
11/2/92	Circular welded nonalloy steel pipe/Brazil	731–TA–532 ...	57 FR 49453
11/2/92	Circular welded nonalloy steel pipe/Korea	731–TA–533 ...	57 FR 49453
11/2/92	Circular welded nonalloy steel pipe/Mexico	731–TA–534 ...	57 FR 49453

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 11–5–249, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

Order date	Product/country	Inv. No.	FR cite
11/2/92	Circular welded nonalloy steel pipe/Taiwan	731–TA–536 ...	57 FR 49454

Following five-year reviews by Commerce and the Commission, effective August 22, 2000, Commerce issued a continuation of the countervailing duty order on imports of welded carbon steel pipe and tube from Turkey (65 FR 50960) and the antidumping duty orders on imports of certain pipe and tube from Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey (65 FR 50955–50958).

Following second five-year reviews by Commerce and the Commission, effective August 8, 2006, Commerce issued a continuation of (1) The countervailing duty order on imports of welded carbon steel standard pipe from Turkey, (2) the antidumping duty orders on imports of circular welded non-alloy pipes and tubes from Brazil, Korea, and Mexico, and (3) the antidumping duty orders on imports of welded carbon steel pipe from India, Thailand and Turkey (71 FR 44996). Effective August 9, 2006, Commerce issued a continuation of the antidumping duty order on imports of light-walled welded rectangular carbon steel tubing from Taiwan (71 FR 45521). Effective August 14, 2006, Commerce issued a continuation of the antidumping duty orders on imports of certain circular welded carbon steel pipes and tubes from Taiwan and circular welded non-alloy steel pipe from Taiwan (71 FR 46447). The Commission is now conducting third reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Brazil, India, Korea, Mexico, Taiwan, Thailand, and Turkey.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, the Commission defined the *Domestic Like Products* as follows: (1) Small Diameter Circular Welded Carbon Steel Pipes and Tubes from Taiwan (Inv. No. 731–TA–132)—small diameter circular pipes and tubes (*i.e.,* with an outside diameter of at least 0.375 inch but not more than 4.5 inches); (2) Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand and Turkey (Inv. Nos. 731–TA–252 and 701–TA–253)—standard pipe up to and including 16 inches in outside diameter; (3) Certain Circular Welded Carbon Steel Pipes and Tubes from India and Turkey (Inv. Nos. 731–TA–271 and 273)—standard pipe of not more than 16 inches in outside diameter; (4) Certain Circular Welded Carbon Steel Pipes and Tubes from Brazil, Korea, Mexico, and Taiwan (Inv. Nos. 731–TA–532–534 and 536)—circular welded, non-alloy steel pipes and tubes of not more than 16 inches in outside diameter, except (a) finished conduit other than finished rigid conduit and (b) mechanical tubing that is not cold-drawn or cold-rolled; (5) Light-Walled Rectangular Pipe and Tube from Taiwan (Inv. No. 731–TA–410)—light-walled rectangular pipe and tube. In its full first five-year review determinations, the Commission found the following *Domestic Like Products:* (A) For the reviews listed in items (1)–(4) above, circular welded non-alloy steel pipes and tubes up to and including 16 inches in outside diameter, regardless of wall thickness and (B) for the review listed in item (5) above, light-walled rectangular pipe and tube. In its full second five-year review determinations, the Commission again defined two *Domestic Like Products* in the same manner as it did in the first five-year reviews. It defined the *Domestic Like Product* corresponding to the circular welded pipe orders under review to be all circular, welded, non-alloy steel pipes and tubes not more than 16 inches in outside diameter, and the *Domestic Like Product* corresponding to the light-walled rectangular pipe order under review to be all light-walled rectangular pipes and tubes.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations and full first and second five-year reviews, for each investigation and review, the Commission defined the *Domestic Industry* as domestic producers of the *Domestic Like Product* corresponding to that investigation or review, as set out in paragraph (3) just above.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register.** The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b)(19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter,

contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 1, 2011. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is September 13, 2011. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information to be Provided in Response to this Notice of Institution: Please provide the requested information separately for each *Domestic Like Product,* as defined by the Commission in its review determinations, and for each of the products identified by Commerce as *Subject Merchandise.* If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise on the Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2005.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2010, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (*i.e.,* the level of production that your establishment(s) could reasonably have expected to attain during the year,

assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) The quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) The quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) The value of (i) Net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country*(ies), provide the following information on your firm's(s') operations on that product during calendar year 2010 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Subject Merchandise* in each *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country(ies)* after 2005, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country*(ies), and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: June 27, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–16443 Filed 6–30–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–539–C (Third Review)]

Uranium From Russia; Institution of a Five-Year Review Concerning the Suspended Investigation on Uranium From Russia

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether termination of the suspended investigation on uranium from Russia would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is August 1, 2011. Comments on the adequacy of responses may be filed with the Commission by September 13, 2011. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207), as most recently amended at 74 FR 2847 (January 16, 2009).

DATES: *Effective Date:* July 1, 2011.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 11–5–252, expiration date June 30, 2011. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*).

The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.— On October 16, 1992, the Department of Commerce (''Commerce'') suspended an antidumping duty investigation on imports of uranium from Russia (57 FR 49220, October 30, 1992). Following first five-year reviews by Commerce and the Commission, effective August 22, 2000, Commerce issued a continuation of the suspended investigation on imports of uranium from Russia (65 FR 50958 and 65 FR 52407 (corrected)). Following second five-year reviews by Commerce and the Commission, effective August 11, 2006, Commerce issued a continuation of the suspended investigation on imports of uranium from Russia (71 FR 46191). The Commission is now conducting a third review to determine whether termination of the suspended investigation would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Russia.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original preliminary determination concerning the U.S.S.R. and in its first and second full five-year review determinations concerning Russia, the Commission defined the Domestic Like Product as uranium coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original preliminary determination concerning the U.S.S.R., the Commission defined the Domestic Industry as domestic producers of the product coextensive with Commerce's scope of the investigation, including the U.S. Department of Energy's uranium enrichment operations. In its full first and second five-year review determinations concerning Russia, the Commission defined the Domestic Industry as all domestic producers of uranium, including concentrators, the converter, the enricher, and fabricators.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation. The Commission's designated agency ethics official has advised that a five-year review is not considered the ''same particular matter'' as the corresponding underlying original investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b)(19 CFR 201.15(b)), 73 FR 24609 (May 5, 2008). This advice was developed in consultation with the Office of Government Ethics. Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR § 201.15, even if the corresponding underlying original investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is August 1, 2011. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is September 13, 2011. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The

Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information to be Provided In Response to this Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the termination of the suspended investigation on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries after 2005.

(7) A list of 3–5 leading purchasers in the U.S. market for the Domestic Like Product and the Subject Merchandise (including street address, World Wide Web address, and the name, telephone number, fax number, and E-mail address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the Domestic Like Product or the Subject Merchandise in the U.S. or other markets.

(9) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 2010, except as noted. Report quantity data in (1) Pounds of natural uranium concentrate (concentrated U_3O_8) (Concentrate Producers), (2) kilograms of natural uranium hexafluoride, or kgU, (natural UF_6) (Converters), (3) SWUs of enriched uranium hexafluoride (enriched UF_6 (LEU–HF)) (Enrichers), or (4) kilograms of enriched uranium oxides, nitrates, and metals, or kgU (Fabricators) (including only that part of the fabrication that is included with the product scope—i.e., the conversion and pelletizing processes). Report value data in U.S. dollars, f.o.b. plant. If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the Domestic Like Product (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s); and

(e) the value of (i) Net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the Domestic Like Product produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2010. Depending upon the form in which it is imported, report quantity data in (1) Pounds of natural uranium concentrate (concentrated U_3O_8), (2) kilograms of natural uranium hexafluoride, or kgU, (natural UF_6), (3) SWUs of enriched uranium hexafluoride (enriched UF_6 (LEU–HF)), or (4) kilograms of enriched uranium oxides, nitrates, and metals, or kgU. Report value data in U.S. dollars, f.o.b. plant. If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject

Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 2010. Report quantity data in (1) pounds of natural uranium concentrate (concentrated U_3O_8) (Concentrate Producers), (2) kilograms of natural uranium hexafluoride, or kgU, (natural UF_6) (Converters), (3) SWUs of enriched uranium hexafluoride (enriched UF_6 (LEU–HF)) (Enrichers), or (4) kilograms of enriched uranium oxides, nitrates, and metals, or kgU (Fabricators) (including only that part of the fabrication that is included with the product scope—i.e., the conversion and pelletizing processes). Report value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties. If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the Subject Merchandise in the Subject Country (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country after 2005, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: June 27, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–16451 Filed 6–30–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–669 (Third Review)]

Cased Pencils From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on cased pencils from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on November 1, 2010 (75 FR 67102) and determined on February 4, 2011 that it would conduct an expedited review (76 FR 11267, March 1, 2011).

The Commission transmitted its determination in this review to the Secretary of Commerce on June 27, 2011. The views of the Commission are contained in USITC Publication 4239 (June 2011), entitled *Cased Pencils from China: Investigation No. 731–TA–669 (Third Review).*

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

By order of the Commission.

Issued: June 27, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–16537 Filed 6–30–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–480 and 731–TA–1188; Preliminary]

High Pressure Steel Cylinders From China

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of high pressure steel cylinders, provided for in subheading 7311.00.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV) and subsidized by the Government of China.

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On May 11, 2011, a petition was filed with the Commission and Commerce by Norris Cylinder Company, Longview, Texas, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV and subsidized imports of high pressure steel cylinders from China. Accordingly, effective May 11, 2011, the Commission instituted countervailing duty investigation No. 701–TA–480 and antidumping duty investigation No. 731–TA–1188 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 18, 2011 (76 FR 28807). The conference was held in Washington, DC, on June 1, 2011, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on June 27, 2011. The views of the Commission are contained in USITC Publication 4241 (July 2011), entitled *High Pressure Steel Cylinders from China: Investigation Nos. 701–TA–480 and 731–TA–1188 (Preliminary).*

By order of the Commission.

Issued: June 27, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–16450 Filed 6–30–11; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–302 and 731–TA–454;Third Review]

Fresh and Chilled Atlantic Salmon From Norway; Scheduling of Full Five-Year Reviews Concerning the Countervailing Duty Order and Antidumping Duty Order on Fresh and Chilled Atlantic Salmon From Norway

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the countervailing duty order or revocation of the antidumping duty order on fresh and chilled Atlantic salmon from Norway would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B). For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: Effective Date: June 23, 2011

FOR FURTHER INFORMATION CONTACT: Jennifer Merrill (202–205–3188), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On April 8, 2011, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (76 FR 22422, April 21, 2011). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on November 7, 2011, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on November 30, 2011, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 21, 2011. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on November 23, 2011, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing

briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is November 17, 2011. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules; witness testimony must be filed no later than three days before the hearing. The deadline for filing posthearing briefs is December 9, 2011. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before December 9, 2011. On January 13, 2011, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before January 17, 2011, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II (C) of the Commission's Handbook on Electronic Filing Procedures, 67 Fed. Reg. 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: June 27, 2011.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2011–16445 Filed 6–30–11; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1123–0011]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Annual certification report and equitable sharing agreement.

The Department of Justice (DOJ), Criminal Division, Asset Forfeiture and Money Laundering Section (AFMLS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 76, Number 80, page 23338, on April 26, 2011, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until August 1, 2011. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to e-mail them to *oira_submission@omb.eop.gov* or fax them to 202–395–7285. All comments should reference the 8 digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please call Clifford Krieger at 202–514–0013 or the DOJ Desk Officer at 202–395–3176.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Reauthorization a currently approved collection.

(2) *Title of the Form/Collection:* Annual Certification Report and Equitable Sharing Agreement.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* N/A. Criminal Division, Asset Forfeiture and Money Laundering Section.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Law Enforcement Agencies that participate in the Federal Equitable Sharing Program. Other: None. The form is part of a voluntary program in which law enforcement agencies receive forfeited assets and proceeds to further law enforcement operations. The participating law enforcement agencies must account for their use of program funds on an annual basis and renew their contract of participation. DOJ uses this information to ensure that the funds are spent in accordance with the requirements of the program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 9,736 respondents will complete a 30 minute form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 4,868 annual total burden hours associated with this collection.

If Additional Information is Required Contact: Jerri Murray, Department Clearance Officer, United States

Department of Justice, Policy and Planning Staff, Justice Management Division, Two Constitution Square, 145 N Street, NE., Room 2E–508, Washington, DC 20530.

Jerri Murray,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. 2011–16573 Filed 6–30–11; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States, et al. v. *American Express Company, et al.;* Public Comments and Response on Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), the United States hereby publishes below its Response to public comments received on the proposed Final Judgment in *United States, et al.* v. *American Express Company, et al.,* Civil Action No. CV–10–4496, which was filed in the United States District Court for the Eastern District of New York on June 14, 2011. The United States received six comments in this case. Pursuant to the June 22, 2011 Order of Judge Nicholas G. Garaufis, the United States has been excused from publishing the substance of the public comments in the **Federal Register**. The public comments and the United States' Response thereto may be found on Department of Justice's Web site at: *http://www.justice.gov/atr/cases/americanexpress.html.*

Copies of the comments and the Response are available for inspection at the Department of Justice Antitrust Division, 450 Fifth Street, NW., Suite 1010, Washington, DC 20530 (*telephone:* 202–514–2481) and at the Office of the Clerk of the United States District Court for the Eastern District of New York, 225 Cadman Plaza East, Brooklyn, NY 11201. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Patricia A. Brink,

Director of Civil Enforcement.

In the United States District Court for the Eastern District of New York

United States of America, et al., Plaintiffs, v. *American Express Company, American Express Travel Related Services Company, Inc., Mastercard International Incorporated, and Visa Inc.,* Defendants.

Civil Action No. 10–CV–4496 (NGG) (RER)

Response of Plaintiff United States to Public Comments on the Proposed Final Judgment

Pursuant to the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h) (''APPA'' or ''Tunney Act''), the United States hereby files the public comments concerning the proposed Final Judgment in this case and the United States' response to those comments. Most of the comments applaud the settlement for lessening the restraints on competition in the General Purpose Card industry. None of the comments contends that the proposed Final Judgment is contrary to the public interest or should not be approved by the Court. The United States has carefully considered the various questions and suggestions contained in the comments and continues to believe that the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Amended Complaint against Defendants MasterCard International Incorporated (''MasterCard'') and Visa Inc. (''Visa''). The United States will therefore move the Court for entry of the proposed Final Judgment after the public comments and this Response have been published in the **Federal Register**.[1]

I. Procedural History

The United States and seven Plaintiff States filed the Complaint in this case on October 4, 2010. Simultaneously, the Plaintiffs filed a proposed Final Judgment as to Defendants MasterCard and Visa and a Stipulation consenting to entry of the proposed Final Judgment after compliance with the Tunney Act. Defendants American Express Company and American Express Travel Related Services Company, Inc., are not parties to the proposed settlement and the litigation against them will continue. On December 21, 2010, the United States filed an Amended Complaint adding eleven additional States as Plaintiffs and an Amended Stipulation including those States in the proposed settlement.[2]

As required by the Tunney Act, the United States (1) filed on October 4, 2010, a Competitive Impact Statement (''CIS'') explaining the settlement with MasterCard and Visa; (2) caused the proposed Final Judgment and CIS to be published in the **Federal Register** on October 13, 2010 (75 FR 62858); and (3) published summaries of the terms of the proposed Final Judgment and CIS, together with directions for the submission of written public comments, in *The Washington Post* and *The New York Post* for seven days beginning on October 11, 2010 and ending on October 17, 2010. The 60-day period for public comments ended on December 16, 2010. The United States received six comments, which are described below in Section IV, and attached as exhibits hereto.

II. The Amended Complaint and the Proposed Final Judgment

The Amended Complaint challenges certain of Defendants' rules, policies, and practices that impede merchants from providing discounts or benefits to promote the use of a competing credit card that costs the merchant less to accept (''Merchant Restraints'').[3] These Merchant Restraints have the effect of suppressing interbrand price and non-price competition in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

The Visa Merchant Restraints challenged in the Amended Complaint prohibit a merchant from offering a discount at the point of sale to a customer who chooses to use a competitor's General Purpose credit or charge Card (''General Purpose Card'') instead of a Visa General Purpose Card. Visa's rules do not allow discounts for other General Purpose Cards, unless such discounts are equally available for Visa transactions. *See* Amended Complaint ¶ 26 (citing Visa International Operating Regulations at 445 (April 1, 2010) (Discount Offer—U.S. Region 5.2.D.2)). The MasterCard Merchant Restraints challenged in the Complaint prohibit a merchant from ''engag[ing] in any acceptance practice that discriminates against or discourages the use of a [MasterCard] Card in favor of any other acceptance brand.'' *See* Amended Complaint ¶ 27 (quoting MasterCard Rule 5.11.1). This means that merchants cannot offer discounts or other benefits to persuade customers to use a Discover, American Express, or

[1] The United States will shortly be filing a motion, pursuant to 15 U.S.C. 16(d), to excuse its obligation to publish certain voluminous exhibits in the **Federal Register**. The United States will arrange for publication of the comments and this Response once the Court has ruled on that motion.

[2] On April 8, 2011, the State of Hawaii withdrew as a Plaintiff.

[3] Pursuant to the Stipulation filed with the Court on October 4, 2010, both Visa and MasterCard have agreed that they ''shall abide by and comply with the provisions of the proposed Final Judgment, pending the Judgment's entry by the Court, * * * and shall * * * comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.'' Stipulation ¶ 3. Accordingly, Visa and MasterCard have ceased enforcing the Merchant Restraints. The language of their merchant rules described in this section, however, will not be changed until the Court enters the Final Judgment. *See* proposed Final Judgment §§ V.A–D.

Visa General Purpose Card instead of a MasterCard General Purpose Card. *Id.* MasterCard does not allow merchants to favor competing card brands. *Id.*

The Merchant Restraints at issue deter or obstruct merchants from freely promoting interbrand competition among networks by offering discounts, other benefits, or information to encourage customers to use a less-expensive General Purpose Card brand or other payment method. The Merchant Restraints block merchants from taking steps to influence customers and foster competition among networks at the point of sale, such as: Promoting a less-expensive General Purpose Card brand more actively than any other brand; offering customers a discount or other benefit for using a particular General Purpose Card that costs the merchant less; posting a sign expressing a preference for another General Purpose Card brand; prompting customers at the point of sale to use another General Purpose Card brand in their wallets; posting the signs or logos of General Purpose Card brands that cost less to the merchant more prominently than signs or logos of more costly brands; or posting truthful information comparing the relative costs of different General Purpose Card brands.

The Amended Complaint alleges that the Merchant Restraints allow Defendants to maintain high prices for network services with confidence that no competitor will take away significant transaction volume through competition in the form of merchant discounts or benefits to customers to use lower-cost payment options. Defendants' prices for network services to merchants are therefore higher than they would be without the Merchant Restraints.

Absent the Merchant Restraints, merchants would be free to use various methods, such as discounts or non-price benefits, to encourage customers to use the brands of General Purpose Cards that impose lower costs on the merchants. In order to retain merchant business, the networks would need to respond to merchant preferences by competing more vigorously on price and service terms. The increased competition among networks would lead to lower merchant fees and better service terms.

Because the Merchant Restraints result in higher merchant costs, and merchants generally pass costs on to consumers, retail prices are higher for consumers. Customers who pay with lower-cost methods of payment pay more than they would if Defendants did not prevent merchants from encouraging network competition at the point of sale. For example, because credit cards that offer rewards tend to be held by more affluent buyers, less affluent purchasers using less expensive payment forms such as debit cards, cash, and checks effectively subsidize expensive premium card benefits and rewards enjoyed by premium cardholders.

The Amended Complaint also alleges that the Merchant Restraints have produced a number of other anticompetitive effects, including reducing output of lower-cost payment methods, stifling innovation in network services and card offerings, and denying information to customers about the relative costs of General Purpose Cards that would cause more customers to choose lower-cost payment methods. Defendants' Merchant Restraints also have heightened the already high barriers to entry and expansion in the network services market. Merchants' inability to encourage their customers to use less-costly General Purpose Card networks makes it more difficult for existing or potential competitors to challenge Defendants' market power.

As more fully explained in the Competitive Impact Statement, the proposed Final Judgment prohibits Visa and MasterCard from adopting, maintaining, or enforcing any rule, or entering into or enforcing any agreement, that prevents any merchant from: (1) Offering the customer a price discount, rebate, free or discounted product or service, or other benefit if the customer uses a particular brand or type of General Purpose Card or particular form of payment; (2) expressing a preference for the use of a particular brand or type of General Purpose Card or particular form of payment; (3) promoting a particular brand or type of General Purpose Card or particular form of payment through posted information; through the size, prominence, or sequencing of payment choices; or through other communications to the customer; or (4) communicating to customers the reasonably estimated or actual costs incurred by the merchant when a customer pays with a particular brand or type of General Purpose Card. Proposed Final Judgment § IV.

The purpose of the proposed Final Judgment is to free merchants to provide customers helpful information, discounts, benefits, and choices at the point of sale to influence the method of payment customers use. Merchants will be able to encourage customers, using the methods described in Section IV.A of the proposed Final Judgment, to use, for example, a Discover General Purpose Card instead of a Visa General Purpose Card. Merchants will also be able to encourage the use of any other payment form, such as cash, checks, or debit cards, by using the methods described in Section IV.A.

To facilitate merchants' ability to encourage customers to use particular General Purpose Cards, the proposed Final Judgment prevents Visa and MasterCard from blocking their acquiring banks from supplying merchants with information that might assist merchants' identification of the less costly General Purpose Cards.

The proposed Final Judgment requires Visa and MasterCard, within five days of entry of the Judgment, to ''delete, discontinue, and cease to enforce'' any rule that would be prohibited by Section IV of the Final Judgment and to implement specific changes to their existing rules and regulations governing merchant conduct. Visa and MasterCard, through their acquiring banks, must notify merchants of the rules changes mandated by the Final Judgment, and of the fact that merchants are now permitted to encourage customers to use a particular General Purpose Card or form of payment. Visa and MasterCard must also provide notice to the Plaintiffs of certain future rule changes.

The prohibitions and required conduct in the proposed Final Judgment achieve all the relief sought from Visa and MasterCard in the Complaint, and thus fully resolve the competitive concerns raised by those Defendants' Merchant Restraints challenged in this lawsuit.

III. Standard of Judicial Review

The Tunney Act requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

> (A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the United States is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (DC Cir. 1995); *accord United States* v. *Alex Brown & Sons, Inc.,* 963 F. Supp. 235, 238 (S.D.N.Y. 1997) (noting that the court's role in the public interest determination is ''limited'' to ''ensur[ing] that the resulting settlement is 'within the reaches of the public interest'''') (quoting *Microsoft,* 56 F.3d at 1460), *aff'd sub nom. United States* v. *Bleznak,* 153 F.3d 16 (2d Cir. 1998); *United States* v. *KeySpan Corp.,* No. 10 Civ. 1415(WHP), 2011 WL 338037, at *3 (S.D.N.Y. Feb. 2, 2011) (same); *United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States* v. *InBev N.V./S.A.,* 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, No. 08–1965 (JR), at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.'').

As the United States Court of Appeals for the District of Columbia Circuit has held, a court considers under the APPA, among other things, the relationship between the remedy secured and the specific allegations set forth in the United States' complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *Alex Brown,* 963 F. Supp. at 238; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.''* More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[4] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *Alex Brown,* 963 F. Supp. at 239 (stating that the court should give ''due deference to the Government's evaluation of the case and the remedies available to it''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' ''prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case'').

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); *see also United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *accord KeySpan,* 2011 WL 338037, at *3.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As the United States District Court for the District of Columbia recently confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments,[5] Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2). This language effectuates what Congress intended when it enacted the Tunney Act in 1974. As Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public interest

[4] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''); *see generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'''').

[5] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for the court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[6]

IV. Summary of Public Comments and the United States' Response

During the 60-day comment period, the United States received six public comments. While the comments raise a variety of issues, no commenter contends that the proposed Final Judgment is contrary to the public interest or that it should not be entered by the Court. Some of the comments seek clarifications or explanations, and these are provided below. Some of the comments contain suggestions for modifying the terms of the proposed Final Judgment. For the reasons explained below, the United States has concluded that these proposed changes are either outside the scope of the Amended Complaint; unnecessary, in light of market facts, to achieve sufficient relief; or unnecessary due to the existing provisions of the proposed Final Judgment. Accordingly, the United States believes that the Court should enter the proposed Final Judgment as originally submitted.

A. Comment From Merchant Class Plaintiffs in In re American Express Anti-Steering Rules Antitrust Litigation

Counsel for merchant class plaintiffs in *In re American Express Anti-Steering Rules Antitrust Litigation,* 06–CV–2974 (S.D.N.Y.), asserts that ''it would provide helpful clarity to merchants and other participants in the payment card industry to receive an answer'' to this question:

> If the Antitrust Division is successful in its action seeking to force American Express to rescind its ''anti-steering rules'' (as described in the Complaint in the above titled action), would the Proposed Final Judgment prevent the Antitrust Division at that point from seeking to compel Visa and MasterCard to rescind their no-surcharge rules?

The answer to this question is ''no.'' Nothing in the proposed Final Judgment would prevent the Antitrust Division from challenging any rule of Visa or MasterCard under the antitrust laws in the future. In fact, Section VIII of the proposed Final Judgment specifically provides that nothing in the Final Judgment ''shall limit the right of the United States or of the Plaintiff States to investigate and bring actions to prevent or restrain violations of the antitrust laws concerning any Rule of MasterCard or Visa, including any current Rule and any Rule adopted in the future.''

B. Comment From Individual Merchant Non-Class Plaintiffs

Counsel for the ''Individual Plaintiffs in direct action (*i.e.,* non-class) antitrust claims'' against Visa and MasterCard in *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation,* MDL 1720 (E.D.N.Y.), and against American Express in *Walgreen Co.* v. *American Express Co., et al.,* No. 08–cv–2317 (E.D.N.Y.), and other related cases, ''urge[s] the Court to approve the proposed Final Judgments because we believe that they are pro-competitive and in the public interest.'' The comment explains that the rules challenged in the Complaint ''restrain network price competition for merchant acceptance'' and the proposed Final Judgment will ''eliminate those anti-competitive rules and further promote competition.''

While the comment supports entry of the proposed Final Judgment, it observes that the proposed Final Judgment does not remove other Visa and MasterCard restraints, including their prohibitions on merchants imposing a fee (surcharge) on consumers to cover merchants' costs of accepting Visa and MasterCard General Purpose Cards. The comment acknowledges that the United States made clear in the CIS that ''the Government is not challenging the networks' no-surcharge rules or other network restraints '[a]t this time,'' and has left open the possibility that it could do so in the future.'' To the extent the comment can be construed as suggesting that the United States should have challenged the Defendants' no-surcharge rules as well, this consideration is not relevant to the Court's Tunney Act analysis. In its Tunney Act review, the Court may consider only those claims that the United States, in the exercise of its prosecutorial discretion, asserted in its Complaint. *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1459–60 (DC Cir. 1995); *United States* v. *Archer-Daniels-Midland,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (''the court is not to review allegations and issues that were not contained in the government's complaint''). As the United States made clear in its CIS, and as the comment acknowledges, this Complaint does not challenge Visa's and MasterCard's prohibitions on surcharging. CIS at 16 n.3. Accordingly, that issue is not part of the Tunney Act proceeding. We reiterate, however, as noted above, that nothing in the proposed Final Judgment would prevent the Antitrust Division from challenging any rule of Visa or MasterCard under the antitrust laws in the future.

C. Comment From Consumer World

Consumer World states that it ''is a leading public service consumer education website.'' It is concerned that the discounts that merchants are permitted to offer under the proposed Final Judgment might turn into surcharges. In Consumer World's view, merchants might choose to advertise ''cash only'' prices, and those who choose not to pay with cash ''might be asked to pay a higher price—a surcharge—if choosing to use plastic.'' To prevent this, Consumer World suggests that ''the settlement should specifically ban surcharges.'' Relatedly, Consumer World is also concerned that, unless the proposed Final Judgment imposes a requirement that merchants fully disclose to consumers that prices may vary depending on the payment method used, consumers might perceive that they are paying a higher price for using credit and charge cards. Consumer World suggests that the decree create rules about how merchants disclose prices in advertisements, in-store displays, and online. Consumer World believes these rules should be implemented through Visa's and MasterCard's merchant agreements.

With respect to Consumer World's suggestion that the proposed Final Judgment ''should specifically ban surcharges,'' the United States notes that the Amended Complaint in this case does not challenge the Defendants' prohibitions on surcharges. *See* CIS at 16 n.3. Accordingly, the proposed Final Judgment does not prohibit Visa and MasterCard from retaining their existing policies against surcharging, to the extent those policies do not conflict with the requirements of the proposed Final Judgment. A number of states also restrict surcharges by statute; those restrictions are similarly unaffected by this settlement. Thus, Consumer World's concern that the decree might free merchants to begin surcharging

[6] *See United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am. Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

General Purpose Card users is unfounded.[7]

Consumer World's suggestion that the proposed Final Judgment should impose restraints on merchant behavior is not appropriate for several reasons. First, merchants are not parties to this case and cannot be bound by the proposed Final Judgment. The Amended Complaint challenges only the Defendants' rules and does not allege that any merchants are violating the antitrust laws. Moreover, because merchant practices concerning price labeling and product advertising are not challenged in the Amended Complaint, relief directed at those practices would not be justified. *See Microsoft,* 56 F.3d at 1460 (''And since the claim is not made, a remedy directed to that claim is hardly appropriate'').

Consumer World's suggestion that the decree should require Visa and MasterCard to incorporate restrictions on merchant pricing and advertising practices is inconsistent with the primary goal of the decree, which is to remove Visa and MasterCard restrictions on merchant competitive practices that may encourage, or steer, customers to choose a less-expensive payment choice over a more-expensive one. Finally, to the extent Consumer World is concerned about merchants engaging in misleading ''bait advertising'' or similar deceptive practices that would result in consumers paying higher prices, the United States notes that the decree does not displace any existing state and Federal consumer protection statutes that address these practices. For these reasons, Consumer World's proposals should not be adopted.

D. Comment From Retail Industry Leaders Association

The Retail Industry Leaders Association (''RILA'') ''welcomes the settlement reached by Plaintiffs and MasterCard International Incorporated and Visa Inc. as it could help facilitate competition in the General Purpose Card market, particularly price competition that could benefit merchants and consumers.'' RILA advocates certain additional relief and requests clarification of two provisions in the proposed Final Judgment. The United States responds to each of these points separately below, accepting the two clarifications and noting that the requested additional relief is addressed in part by an electronic service Visa offers and MasterCard will soon offer.

1. Steering Among Card Types

The proposed Final Judgment removes restrictions on three kinds of merchant competitive behavior: (a) Steering among General Purpose Card brands, or networks (*e.g.*, from Visa to Discover); (b) steering among payment methods (*e.g.*, from a MasterCard General Purpose Card to PayPal or a debit card); and (c) steering among card types (*e.g.*, from an expensive Visa rewards General Purpose Card to a cheaper non-rewards Visa or MasterCard General Purpose Card). The Amended Complaint focuses primarily on the first two types of steering. RILA's comment addresses the third type of steering.[8]

RILA observes that, to effectively steer consumers ''from expensive Visa and MasterCard credit cards to cheaper forms of payments * * * merchants need to know which type of cards they are receiving at the point of sale.'' RILA expresses concern that merchants cannot always distinguish a General Purpose Card with a high interchange fee from one with a lower interchange fee. The issue RILA raises is an important one. If a merchant cannot distinguish, for instance, a Visa rewards card carrying a high interchange fee from a lower-cost card (issued by either Visa or another network) or another less-costly form of payment, the merchant would be limited in its ability to steer consumers to, for example, the lower-cost General Purpose Card.[9]

In response to RILA's comment, the United States explored with Visa and MasterCard how to address the concern that merchants' ability to distinguish among types of General Purpose Cards is limited. RILA sought an ''electronic means to identify the Types of Visa and MasterCard General Purpose Cards that qualify for distinct interchange tiers, based on the Type of Card.'' RILA Comment at 15. The United States learned that Visa offers, and MasterCard will soon offer, such an electronic means to differentiate among card types.[10] These electronic services address the concern raised by RILA for many merchants.

The United States recognizes that these services are not a complete solution for merchants as some may require additional terminal programming and coordination with the merchants' Acquiring Banks,[11] and the services will not be available during periods when electronic communications among the merchant, the Acquiring Bank, and Visa or MasterCard are not working. It is possible that if an additional component of RILA's proposed relief were imposed (*i.e.*, if there were a mandatory unique visual identifier for each type of card subject to a different interchange fee tier), it would be easier for merchants to identify for consumers the lower-cost cards for which a discount or other inducement might be available.[12] On

[7] The United States further believes that modifying the proposed Final Judgment to ban surcharging is not appropriate because, as noted above in Section IV.A of this Response, the United States retains the power to determine that the Defendants' no-surcharge rules are anticompetitive and to challenge them as violations of the antitrust laws. The Final Judgment should not foreclose the United States from taking such future enforcement action. The United States also notes that the question of Visa's and MasterCard's rules against surcharging is at issue in other litigation in this District. *In re Payment Card Interchange Fee & Merch. Disc. Antitrust Litig.,* MDL 1720 (E.D.N.Y.).

[8] More specifically, RILA's first point relates to only one form of steering protected by the proposed Final Judgment, *i.e.*, steering by card type. The card ''type'' refers to the categories of General Purpose Cards established by the Defendants—for example, rewards cards, non-rewards cards, or premium cards like the MasterCard World card or Visa Signature card. *See* Proposed Final Judgment § II.16 (defining ''Type''). The intrabrand steering that would be exercised if a merchant encourages a consumer to use a standard Visa General Purpose Card rather than a high-cost Visa rewards General Purpose Card is not the major focus of the Amended Complaint. But steering by card type can implicate the type of interbrand competition that is the principal focus of the Amended Complaint when merchants encourage consumers, for instance, to use a low-cost standard Visa General Purpose Card rather than a high-cost rewards MasterCard General Purpose Card.

[9] The most significant form of steering protected by the proposed Final Judgment—among General Purpose Card networks—can be implemented without any new identification measures because the brand (Discover, American Express, Visa, MasterCard, *etc.*) is almost always clearly indicated on the face of a card. Another important form of steering protected by the proposed Final Judgment—from General Purpose Cards to another form of payment—is also easily implemented by merchants. Most of these alternative forms of payment, such as debit cards, checks, and cash, are clearly distinguishable from credit and charge cards.

[10] RILA preferred that the electronic identification of the card ''Type'' be encoded on the magnetic stripe of each card. The electronic inquiry service, described below, while a different system, does enable a merchant to ''identify the Types of Visa and MasterCard General Purpose Cards that qualify for distinct interchange tiers, based on the Type of Card.''

[11] Acquiring Banks are entities ''authorized by MasterCard or Visa to enter into agreements with Merchants to accept MasterCard's or Visa's General Purpose Cards as payment for goods or services.'' Proposed Final Judgment § II.1. They are sometimes referred to in the industry as acquirers. An Acquiring Bank ''manages the merchant's relationship with Visa and MasterCard'' (Amended Complaint ¶ 15) and is responsible for paying the merchant for purchases made with Visa and MasterCard General Purpose Cards and distributing the portions of the card acceptance fees owed to the issuing banks and the networks. *See* CIS at 3. Merchants choose which Acquiring Bank they want to use, and Acquiring Banks compete with each other to sign up merchants. There are a substantial number of Acquiring Banks in competition for merchant business.

[12] The decree does not require Visa and MasterCard to add particular visual identifiers to their products. Each network's most expensive cards (Visa's ''Signature'' cards and MasterCard's

balance, however, the United States concludes that the proposed Final Judgment is a sufficient and appropriate remedy for the restrictions on competition that were alleged as violations in the Complaint. The United States will continue to give attention to other matters affecting competition in this important industry, which has been the subject, recently, of not only the current enforcement action but also of other antitrust enforcement actions, private litigation, legislation, and regulatory actions. The proposed Final Judgment ensures that Visa and MasterCard will not continue the challenged restrictions on competitive steering by merchants, and the elimination of those restrictions will benefit the public interest as this industry continues to evolve.

a. Visa's and MasterCard's Inquiry Services

Merchants are able to determine the type of Visa card presented at the point of sale using an electronic inquiry currently available through the Visa network. Visa has many different types of General Purpose Cards. Declaration of Judson Reed ¶ 3 (attached as Exhibit 14). A merchant wishing to identify the type of a Visa General Purpose Card presented by a customer would be able to initiate an inquiry to the Visa network using Visa's ''Product Eligibility Inquiry Service.'' *Id.* ¶ 4. Visa's electronic response would contain the product identification code that indicates the card type. *Id.* Merchants can make the product eligibility inquiry without having to initiate a sales transaction authorization request to Visa. *Id.* As described below, merchants can use this product code to determine the interchange and other fees associated with that card type.

MasterCard will soon have a similar electronic inquiry system. MasterCard assigns unique product identification codes and account category indicators to its various card types. Declaration of Brad Tomchek ¶ 4 (attached as Exhibit 16). MasterCard has represented to the United States that, in August 2011, it will introduce an electronic inquiry service, called the ''Product Validation Service.'' *Id.* ¶ 7. As with Visa's service, MasterCard's new service will allow merchants to receive a message from the MasterCard network that indicates the customer's card type, without having to initiate any transaction authorization request. *Id.* ¶¶ 9–10.

b. Using the Inquiry Services to Determine the Cost Associated With a General Purpose Card

Merchants or their Acquiring Banks can use the product type information supplied by each network's service to determine the interchange fees associated with the credit card swiped by the consumer. *See* Tomchek Decl. ¶ 11; Reed Decl. ¶ 5. Visa and MasterCard are prohibited, under Section IV.D of the proposed Final Judgment, from blocking Acquiring Banks from providing this pricing information to merchants. Competition among Acquiring Banks will give them incentives to find new and innovative ways to meet merchant demand for information and technology that will allow them to implement their desired steering methods. Acquiring Banks that find efficient and useful ways to meet merchants' new-found demand will win more merchant business.

c. Visa and MasterCard Will Not Charge a Fee for the Inquiry Services

Both Visa and MasterCard have represented to the United States that they are not charging a fee, either to merchants or to Acquiring Banks, for their electronic inquiries.[13] Reed Decl. ¶ 9; Tomchek Decl. ¶ 8. If Visa or MasterCard impose or increase fees associated with these services and, as a result, prevent or restrain merchants from engaging in protected steering activities, they face consequences under the proposed Final Judgment. Section IV.A provides that neither Visa nor MasterCard may adopt or maintain any policy or practice (both of which are encompassed within the term ''Rule'' defined in Section II.15 of the proposed Final Judgment) that ''directly or indirectly prohibits, prevents, or restrains'' merchants from engaging in the steering methods described in IV.A.1–8. If Visa or MasterCard were to discontinue its service or increase its fees, its new practice might prevent or restrain merchants from steering from high-cost Visa or MasterCard rewards cards to other card types or other payment forms—conduct which merchants are permitted to engage in under Section IV.A of the proposed Final Judgment. Visa and MasterCard have each acknowledged in writing that, if the United States presents facts demonstrating that the discontinuation of their electronic inquiry services, or fees charged for them, prevented or restrained merchants from engaging in protected steering practices, they would be in violation of the proposed Final Judgment. *See* Exhibits 15, 17.

2. RILA's Requests for Clarification of the Proposed Final Judgment

RILA seeks clarification on two other portions of the proposed Final Judgment. As explained below, the United States concurs in the interpretations RILA seeks.

First, RILA requests clarification that Section IV.D of the proposed Final Judgment ''would prohibit Visa and MasterCard from preventing, in any way, merchant access to electronic information or data that can be used to identify Types of General Purpose Cards, including the Types of General Purpose Cards that qualify for distinct interchange tiers.'' RILA Comment at 15 n.12.

The proposed Final Judgment does prohibit the conduct that RILA identifies. As discussed above, Section IV.D of the proposed Final Judgment prohibits Visa and MasterCard from preventing Acquiring Banks from providing to merchants ''information regarding the costs or fees the Merchant would incur in accepting a General Purpose Card, including a particular Type of General Purpose Card, presented by the Customer as payment for the Customer's transaction.'' This prohibition would cover any information or data that is reasonably necessary for a merchant to determine its costs or fees for acceptance of a General Purpose Card or of a particular Type of General Purpose Card, including the ''electronic information or data'' to which RILA's comment refers. Visa and MasterCard may not prohibit Acquiring Banks from sharing such information with merchants. In addition, the language in Section IV.A that restrains Visa and MasterCard from ''directly or indirectly'' blocking merchants from engaging in certain

''World'' and ''World Elite'' cards) are already, in many circumstances, visually identifiable. Also, imposing this requirement on Visa or MasterCard (or, more specifically, on their issuing banks) would come with some disadvantages, and the United States determined that these disadvantages likely exceeded the benefits of such an approach at this point in time. Visa and its issuing banks, for example, have developed 33 product types and may well develop new products in the future. A requirement that General Purpose Card issuers restrict their offerings to a workably small number of card types or tiers could impede their incentives and abilities to continue to develop products as they seek to appeal to consumers. In this context, any additional benefit of imposing detailed requirements (*e.g.*, concerning the appearance or other attributes of General Purpose Cards or specifically defining or limiting interchange fee tiers) for General Purpose Cards on Visa, MasterCard, and their card issuers did not appear to be great enough to justify the disadvantages of such requirements, particularly in light of continuing change in the industry.

[13] Although Visa and MasterCard are not assessing a fee, it is possible that a merchant's Acquiring Bank may decide to charge a fee for this service. The proposed Final Judgment does not govern the conduct of Acquiring Banks, which are not parties to this proceeding. Competition among Acquiring Banks should aid in keeping any such fees in check.

conduct to encourage consumers to use a particular General Purpose Card would prevent Visa and MasterCard from interfering with merchants' ability to obtain and use information or data reasonably necessary to engage in that conduct.

Second, RILA seeks confirmation that ''Section [IV.B.4] will not be interpreted to enable Visa and MasterCard to maintain rules that would prevent merchants from steering consumers from more expensive Visa or MasterCard rewards credit cards issued by one bank to a less expensive Visa or MasterCard credit card issued by another bank.'' RILA believes ''it would be helpful to clarify that the Section [IV.B.4] will not derogate from the rights merchants are to be provided under Section IV.A of the Final Judgment.''

RILA is correct that Section IV.B.4 does not derogate from the rights provided in Section IV.A. Section IV.B.4 is intended to allow Visa and MasterCard to maintain network rules that prohibit merchants from engaging in steering based on the identity of the issuing bank (as the Amended Complaint does not challenge such rules). The proposed Final Judgment allows Visa and MasterCard to block merchants from discriminating against the cards of one issuing bank over another issuing bank, based on the identity of the bank. Section IV.B.4, however, does not limit the ability of merchants to steer on the basis of card brand or type. Therefore, in RILA's hypothetical example, Visa or MasterCard could not prohibit a merchant from steering from Bank A's rewards Visa card to Bank B's non-rewards Visa card on the basis of card type (rewards vs. non-rewards), even though the two cards were issued by different banks. Similarly, a merchant would be permitted to steer from Bank A's Visa to Bank B's MasterCard on the basis of brand (Visa vs. MasterCard). Section IV.B.4, however, does allow Visa and MasterCard to have rules prohibiting merchants from distinguishing between Bank A's and Bank B's General Purpose Cards based solely on the identities of the banks. Thus, Section IV.B.4 is not in conflict with the rights conferred by Section IV.A.

E. Comment From Sears Holdings Corporation

Sears Holdings Corporation, ''the nation's fourth-largest broad line retailer,'' states that it ''supports the DOJ's and participating Attorneys General efforts to remove anti-competitive network rules that do not foster competition.'' Sears proposes that Section IV.A.8 of the proposed Final Judgment ''be interpreted to require that the networks and issuing banks clearly identify what type of account is being presented to the merchant so that the merchant could readily determine if a discount was warranted.'' Sears believes this step is needed because ''[u]nder current practices, the merchant cannot know from the face of the card which type of card is being presented.'' The United States understands Sears' comment to be substantively identical to the comment submitted by RILA, to which the United States responded above.

Sears also comments that ''[a]nother practice that has the effect of subverting the Proposed Final Judgment and Stipulation is the lack of standards for identifying commercial debit cards.'' It explains that commercial debit cards ''are assessed a much higher merchant discount fee'' than consumer debit cards. The ''lack of standards precludes the merchant from discerning which [debit] cards would qualify for the discount versus those that do not.''

Whatever the merits of this point, it is beyond the scope of this case. The Amended Complaint alleges violations relating only to the General Purpose Card product market, a market that does not include debit cards. Therefore, relief related to the labeling of debit cards is outside the scope of the Amended Complaint and is not part of the Court's review under the Tunney Act. *See Microsoft,* 56 F.3d at 1460 (''And since the claim is not made, a remedy directed to that claim is hardly appropriate.'').

F. Comment From MDL 1720 Proposed Class of Merchants

The proposed class of merchants in *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation,* MDL 1720 (E.D.N.Y.) submitted a comment stating that ''the Proposed Final Judgment is procompetitive and furthers the public interest as required by the Tunney Act.'' The comment goes on to observe that (1) the United States ''can enhance the effectiveness of the proposed relief by interpreting the Proposed Final Judgment'' to allow two particular merchant practices; (2) the ultimate effectiveness of the proposed Final Judgment turns on various future events; and (3) the court should impose additional reporting requirements on the parties. The United States addresses each point in turn.

1. The Proposed Final Judgment Permits a Broad Variety of Merchant Steering Practices

The comment states that the proposed Final Judgment would be more effective if it were interpreted to allow two particular hypothetical practices. We will address each separately.

The comment describes the first practice as follows: ''if merchants could display separate prices at the point of sale for purchases made on various methods of payment, the merchant could inform the consumer of the relative prices of payment methods without placing a 'surcharge' on the transaction amount.''

Based on this description, it appears that this practice would be permitted by the proposed Final Judgment. In general, the proposed Final Judgment effectively removes restraints on a wide variety of merchant practices to encourage consumers to use a different payment option. With respect to this hypothetical practice—the display of ''separate prices at the point of sale for purchases made on various methods of payment''—the United States notes that provisions of the proposed Final Judgment generally would not allow Visa or MasterCard to block this practice. First, the proposed Final Judgment permits merchants, without interference from Visa or MasterCard:

to ''communicat[e] to a Customer the * * * costs incurred by the Merchant when a Customer uses a particular [payment method] or the relative costs of using different [payment methods]'' (§ IV.A.7);
to ''promot[e] a particular [payment method] through posted information, through the size, prominence, or sequencing of payment choices, or through other communications'' (§ IV.A.6); and
to ''express a preference for'' and encourage customers to use particular payment methods (§§ IV.A.4–A.5).

Merchants may also engage in ''practices substantially equivalent'' to these practices (§ IV.A.8). Thus, the proposed Final Judgment prevents Visa or MasterCard from prohibiting a merchant from displaying a list of various price options for an item depending on payment method.[14]

[14] Section IV.A of the proposed Final Judgment protects the conduct of a merchant who is ''offering the Customer a discount or rebate.'' Visa or MasterCard may not restrain such a ''discount or rebate.'' By contrast, the proposed Final Judgment does not prohibit Visa or MasterCard from maintaining their ''no surcharge'' rules. If merchants implement any price difference as a ''discount or rebate,'' rather than a surcharge, then their conduct is protected by the proposed Final Judgment. Courts can distinguish between a discount and a surcharge. See *Thrifty Oil Co.* v. *Superior Court,* 111 Cal. Rptr.2d 253 (Cal. Ct. App. 2001) (a gas station that posted separate prices for

The second hypothetical practice is described as follows: ''if a consumer had a payment device that could process a transaction over multiple networks, a merchant could obtain a similar result by programming its POS device to offer the consumer the option of paying with the cheapest network first.'' The same provisions of the proposed Final Judgment discussed in the preceding paragraph would also be relevant to this second practice. It is not clear from the comment what type of consumer ''payment device'' is envisioned, or what information the merchant's point-of-sale device would convey. However, Visa and MasterCard cannot prevent a merchant from promoting ''a particular Brand or Type of General Purpose Card or a particular Form or Forms of Payment through * * * sequencing of payment choices * * * '' (§ IV.A.6). This provision allows merchants to prompt a customer at the point of sale to use one or more preferred means of payment.

2. The Facts in the Record Today Support Entry of the Proposed Final Judgment

The comment states that the Court's Tunney Act review ''requires assessments of the future'' that take into account not only the Proposed Final Judgment, but also events that have not yet come to pass, including ''recently-enacted (but not yet implemented) legislation, the outcome of MDL 1720, the outcome of merchant litigation against American Express and future technological changes that may affect the relevant markets.'' Comment at 3.

The comment makes the observation, which is applicable to all settlements, that there is some uncertainty about the future impact and effectiveness of any proposed relief. Markets can change over time to enhance or diminish the impact of a consent decree. Nevertheless, under the Act, the Court must base its decision on the facts in the record today. The United States' predictions about how the proposed Final Judgment will stimulate competition among General Purpose Card networks and benefit consumers, *see, e.g.,* CIS at 9–10 & 14, are entitled to deference in this proceeding. *Microsoft,* 56 F.3d at 1461; *Republic Services,* 723 F. Supp. 2d at 161; *Enova,* 107 F. Supp. 2d at 18; *Archer-Daniels-Midland Co,* 272 F. Supp. 2d at 6; *Alex Brown,* 963 F. Supp. at 238–39.

The proposed Final Judgment is not measured by how it resolves all of the concerns about the General Purpose Card industry raised by the comment—concerns which, in most cases, are not mentioned in the Amended Complaint. The issue before the Court is whether the relief resolves the violation identified in the Amended Complaint in a manner that is within the reaches of the public interest. Although the case or the relief may be narrower than the commenter may prefer, the comment acknowledges that the asserted ''narrowness of the Proposed Final Judgment does not by itself stand in the way of approval.'' Comment at 14. The United States will continue to monitor the General Purpose Card industry and expressly retains the power to bring other enforcement actions where appropriate.

3. No Additional Reporting Requirements Are Necessary

Lastly, the comment states that ''this Court should consider in its retention of jurisdiction requiring periodic reports from the Department of Justice, Visa and MasterCard providing information and data regarding levels of interchange fees and the price discrimination by which Visa, MasterCard and their member banks have exercised their substantial market power.'' [15] The United States does not believe that such reports are necessary for the effective enforcement of this decree. In contrast to the plaintiffs in MDL 1720, the United States' Amended Complaint does not challenge the existence of interchange fees or the process by which they are set. The proposed Final Judgment does not mandate any particular level of interchange fees. The relief here is simple, straightforward, and easily implemented—the decree removes the rules that the United States has challenged as anticompetitive and restrains Visa and MasterCard from prohibiting the merchant conduct protected by the decree. Once Visa and MasterCard have taken the steps required by Section V, which will largely be complete within days after entry of the Final Judgment, the relief will have been fully implemented and no further reporting to this Court is needed to ensure compliance. If there are any future concerns about compliance with the Final Judgment, the United States has broad powers pursuant to Section VI to obtain the appropriate ''books, ledgers, accounts, records, data and documents,'' interview employees, solicit written reports and written interrogatory responses from Visa and MasterCard, and initiate appropriate proceedings to enforce the Final Judgment.

V. Conclusion

After careful consideration of the public comments, the United States concludes that entry of the proposed Final Judgment will provide an effective and appropriate remedy for the antitrust violations alleged in the Amended Complaint and is therefore in the public interest. Accordingly, after the comments and this Response are published, the United States will move this Court to enter the proposed Final Judgment.

Respectfully submitted,

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Dated: June 14, 2011.

Certificate of Service

I hereby certify that on June 14, 2011, I caused the Response of Plaintiff United States to Public Comments on the Proposed Final Judgment to be filed via the Court's CM/ECF system, which will electronically serve a copy upon the following:

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payment by cash or by credit card was offering a statutorily-permitted discount for the use of cash and was not imposing a surcharge on credit card users, a practice that is illegal under state statute; *see also* Cal. Civ. Code § 1748.1(a) (expressly permitting discounts but prohibiting credit card surcharges). If a merchant adopts a steering practice to encourage consumers to use lower-cost payment forms that is protected by Section IV.A of the proposed Final Judgment (such as a ''discount or rebate''), then Visa and MasterCard cannot prohibit or restrain that practice—even if they try to argue that the practice involves the imposition of a surcharge in violation of their rules. By contrast, if a merchant adopts a steering practice that involves a surcharge (*e.g.,* if a merchant levies a discrete fee at the point of sale on a consumer who presents a credit card), then Visa or MasterCard could enforce its ''no surcharge'' rule without violating the proposed Final Judgment.

[15] The comment incorrectly states that the proposed Final Judgment has a ''five year term.'' In fact, the term is ten years. Proposed Final Judgment, Section IX.

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MISSISSIPPI RIVER COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS: Mississippi River Commission.

TIME AND DATE: 9 a.m., August 15, 2011.

PLACE: On board MISSISSIPPI V at City Front, New Madrid, MO.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., August 16, 2011.

PLACE: On board MISSISSIPPI V at Mud Island, Memphis, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., August 17, 2011.

PLACE: On board MISSISSIPPI V at Lake Providence Port, Lake Providence, MS.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Vicksburg District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., August 19, 2011.

PLACE: On board MISSISSIPPI V at Port Commission, Morgan City, LA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries;

(2) District Commander's overview of current project issues within the New Orleans District, and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

CONTACT PERSON FOR MORE INFORMATION: Mr. Stephen Gambrell, telephone 601–634–5766.

George T. Shepard,

Colonel, EN, Secretary, Mississippi River Commission.

[FR Doc. 2011–16702 Filed 6–29–11; 11:15 am]

BILLING CODE 3720–58–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Ocean Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Proposal Review Panel for Ocean Sciences (#10752).

Date & Time: July 12–13, 2011, 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Stafford I Room 320.

Type of Meeting: Part-Open.

Contact Person: Michelle Hall, Program Director, Division of Ocean Sciences, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–8583.

Purpose of Meeting: To conduct a decadal review of the Center for Ocean Science Education Excellence (COSEE) funded by the NSF.

Agenda: To review and determine whether or not a program has made appropriate progress and contribution to the field during the prior decade and to provide advice to NSF on the future of the program.

Tuesday, July 12, 2011

8 a.m.–9:30 a.m.—Open for opening remarks and COSEE presentations
10 a.m.–12 p.m.—Closed for committee deliberations
1 p.m.–1:30 p.m.—Closed presentations
1:30 p.m.–5 p.m.—Closed for committee deliberations

Wednesday, July 13, 2011

8 a.m.–5 p.m.—Closed for committee writing and deliberations.

Reason for Closing: Topics to be discussed and evaluated during the site review may include proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposal. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in The Sunshine Act.

Dated: June 27, 2011.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2011–16535 Filed 6–30–11; 8:45 am]

BILLING CODE 7555–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This gives notice of OPM decisions granting authority to make appointments under Schedules A, B, and C in the excepted service as required by 5 CFR 213.103.

FOR FURTHER INFORMATION CONTACT: Roland Edwards, Senior Executive Resource Services, Executive Resources and Employee Development, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: Appearing in the April 1, 2011, and April 31, 2011. These notices are published monthly in the **Federal Register** at *http://www.federalregister.gov/.* A consolidated listing of all authorities as of June 30 is also published each year. The following Schedules are *not* codified in the Code of Federal Regulations. These are agency-specific exceptions.

Schedule A

No Schedule A authorities to report during April 2011.

Schedule B

No Schedule B authorities to report during April 2011.

Schedule C

The following Schedule C appointments were approved during April 2011.

Agency name	Organization name	Position title	Authorization number	Effective date
Department of Agriculture	Office of the Under Secretary Farm and Foreign Agricultural Service.	Chief of Staff	DA110040	4/4/2011
	Rural Utilities Service	Senior Advisor	DA110047	4/4/2011
	Office of the Assistant Secretary for Congressional Relations.	Deputy Director, Intergovernmental Affairs.	DA110059	4/21/2011
	Office of the Under Secretary for Rural Development.	Executive Director, National Food and Agriculture Council.	DA110060	4/27/2011
Department of Commerce	National Telecommunications and Information Administration.	Press Secretary	DC110065	4/4/2011
	Office of Executive Secretariat	Deputy Director, Executive Secretariat.	DC110066	4/8/2011
Department of Defense	Office of the Under Secretary of Defense (Policy).	Special Advisor (Detainee Policy)	DD110055	4/15/2011
Department of the Navy	Department of the Navy	Special Assistant	DN110016	4/20/2011
Department of Education	Office of Communications and Outreach.	Confidential Assistant	DB110044	4/4/2011
	Office of Planning, Evaluation and Policy Development.	Confidential Assistant	DB110050	4/4/2011
	Office of Elementary and Secondary Education.	Confidential Assistant	DB110047	4/4/2011
	Office of Planning, Evaluation and Policy Development.	Special Assistant	DB110041	4/4/2011
	Office of the Deputy Secretary	Special Assistant	DB110058	4/11/2011
	Office of Vocational and Adult Education.	Special Assistant	DB110033	4/11/2011
	Office of the General Counsel	Special Assistant	DB110048	4/11/2011
	Office of the Secretary	Confidential Assistant	DB110056	4/21/2011
	Office of the Secretary	Confidential Assistant	DB110053	4/21/2011
	Office of the Secretary	Special Assistant	DB110052	4/21/2011
	Office of the Secretary	Special Assistant	DB110051	4/21/2011

Agency name	Organization name	Position title	Authorization number	Effective date
	Office of the Secretary	Confidential Assistant	DB110055	4/21/2011
	Office of the Secretary	Confidential Assistant	DB110059	4/22/2011
Department of Energy	Office of Public Affairs	Deputy Press Secretary	DE110070	4/20/2011
	Office of Electricity Delivery and Energy Reliability.	Special Assistant	DE110072	4/21/2011
Environmental Protection Agency	Office of the Associate Administrator for External Affairs and Environmental Education.	Assistant Press Secretary	EP110020	4/4/2011
	Office of the Associate Administrator for External Affairs and Environmental Education.	Director, Office of Public Engagement.	EP110021	4/21/2011
Federal Communications Commission.	Office of Media Relations	Communications Director	FC110005	4/26/2011
Government Printing Office	Office of the Public Printer	Executive Assistant	GP110001	4/26/2011
Department of Health and Human Services.	Office of the Assistant Secretary for Children and Families.	Director of Public Affairs	DH110070	4/4/2011
	Office of the Secretary	Confidential Assistant	DH110077	4/26/2011
Department of Housing and Urban Development.	New England (Boston)	Regional Administrator	DU110018	4/19/2011
Department of the Interior	Secretary's Immediate Office	Special Assistant for Advance	DI110049	4/20/2011
DEPARTMENT OF JUSTICE	Office of the Legal Counsel	Senior Counsel	DJ110065	4/20/2011
	Office of Justice Programs	Chief of Staff	DJ110069	4/29/2011
Department of Labor	Employment and Training Administration.	Chief of Staff	DL110022	4/7/2011
	Office of Disability Employment Policy.	Chief of Staff	DL110023	4/15/2011
	Office of Public Affairs	Speech Writer	DL110025	4/21/2011
	Office of the Secretary	Briefing Book	DL110027	4/29/2011
National Endowment for the Arts	National Endowment for the Arts	Special Assistant for Congressional Affairs.	NA110001	4/21/2011
Office of Management and Budget	Legislative Affairs	Legislative Assistant	BO110014	4/8/2011
	Office of the Director	Special Assistant	BO110017	4/20/2011
Office of Personnel Management	Office of Personnel Management	Press Secretary	PM110007	4/26/2011
Small Business Administration	Office of Field Operations	Regional Administrator for Region Iv.	SB110027	4/7/2011
	Office of the Administrator	Senior Policy Advisor	SB110023	4/11/2011
Social Security Administration	Office of the Commissioner	Senior Advisor	SZ110035	4/26/2011
Department of State	Office of the Global Women's Initiative.	Senior Advisor	DS110047	4/19/2011
	Bureau for Education and Cultural Affairs.	Staff Assistant	DS110073	4/29/2011
Department of Transportation	Assistant Secretary for Budget and Programs.	Deputy Assistant Secretary for Management and Budget.	DT110026	4/21/2011
Department of the Treasury	Secretary of the Treasury	Deputy Executive Secretary	DY110060	4/1/2011
Department of Veterans Affairs	Office of the Assistant Secretary for Public and Intergovernmental Affairs.	Press Secretary	DV110040	4/8/2011

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2011–16547 Filed 6–30–11; 8:45 am]

BILLING CODE 6325–39–P

POSTAL REGULATORY COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 75 FR 37161 (June 24, 2011).

CHANGES IN THE MEETING: An item has been added to the closed portion of the meeting: Item 9—Personnel—discussion of the impact of an employment action on EEO reporting.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, 202–789–6820.

Dated: June 24, 2011.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2011–16697 Filed 6–29–11; 11:15 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64755; File No. SR–BX–2011–037]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7034 Regarding Co-Location Fees for Additional Power and Cable Options

June 27, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 23, 2011, NASDAQ OMX BX, Inc. (''BX'' or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7034 regarding co-location fees for additional power and cable options. The text of the proposed rule change is available at *http://nasdaqomxbx.cchwallstreet.com/,* at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7034 regarding co-location fees for additional power and cable options. The Exchange proposes to offer a new choice of a pair of power receptacles (60 amps 208 volts), which would provide enough power for a high density cabinet. The proposed fee for installation of the pair of the 60 amp 208 volt power receptacles is $3,000. There are ten other power choices already available and this new receptacle choice is being offered as more clients are requesting higher power density cabinets. Additionally, the Exchange proposes to offer a new choice of patch cable, twinaxial (otherwise known as ''Twinax'') cables, in lengths of one meter to five meters. The proposed fee for the Twinax cables is $34 + $10 per meter. The Exchange is making the Twinax cables available as a convenience to customers, and notes that use of Exchange-provided patch cords is completely voluntary, and that such patch cords may be freely obtained from other vendors for use by customers in the datacenter.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[3] in general, and with Section 6(b)(4) of the Act,[4] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls.

The Exchange operates in a highly competitive market, in which exchanges offer co-location services as a means to facilitate the trading activities of those members who believe that co-location enhances the efficiency of their trading. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of such members. If a particular exchange charges excessive fees for co-location services, affected members will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including co-locating with a different exchange, placing their servers in a physically proximate location outside the exchange's data center, or pursuing trading strategies not dependent upon co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also revenues associated with the execution of orders routed to it by affected members. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for co-location services.

It should be noted, however, that the costs associated with operating a co-location facility, like the costs of operating the electronic trading facility with which the co-location facility is associated, are primarily fixed costs, and in the case of co-location are primarily the costs of renting or owning data center space and retaining a staff of technical personnel. Accordingly, the Exchange establishes a range of co-location fees with the goal of covering these fixed costs, covering less significant marginal costs, such as the cost of electricity, and providing the Exchange a profit to the extent the costs are covered. Because fixed costs must be allocated among all customers, the Exchange's fee schedule reflects an effort to assess a range of relatively low fees for specific aspects of co-location services, which, in the aggregate, will allow the Exchange to cover its costs and to the extent the costs are covered, allow the Exchange to earn a profit.

In the case of the proposed fees for a pair of the 60 amp power receptacles and the Twinax cables, the proposed fees cover the marginal costs of establishing and maintaining the electrical installation, the costs of obtaining the cable equipment from the Exchange's vendors, and allow the Exchange to earn a profit; [sic] to the extent the costs are covered. Accordingly, the Exchange believes that it is reasonable to use fees assessed on this basis as a means to recoup a share of fixed costs associated with the proposed power and cable options, provide a convenience for the customers and to the extent the costs are covered, provide a profit to the Exchange.

The Exchange also notes that the fees charged by the Exchange are generally lower or comparable to prices charged by other exchanges or unregulated vendors for similar services. For instance, NYSE Arca, Inc. charges for the power installation by including it in a higher install for the co-location cabinet.[5] With respect to the proposed fees for Twinax cables, the fees charged by the Exchange are generally lower or comparable to prices charged by unregulated vendors for similar products. See *http://www.google.com/products/catalog?hl=en&biw=1259&bih=813&q=Twinax+cable&um=1&ie=UTF-8&tbm=shop&cid=15023972358025904938&sa=X&ei=8tDfTaOwIcHagQeVu6DUCg&ved=0CDcQ8wIwAw#.*

Furthermore, because the proposed services are available to all members through optional co-location services, the Exchange's fees for proposed co-location services are reasonable and equitably allocated across the membership. All co-location customers are offered the same range of products and services and there is no differentiation among customers with regard to the fees charged for a particular product, service, or piece of equipment.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(4).

[5] *See* Release No. 63275 (November 8, 2010) at page 4, 75 FR 70048 (November 16, 2010) (SR–NYSEArca–2010–100) [sic].

necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[6] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–BX–2011–037 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2011–037. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the principal office of the self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2011–037 and should be submitted on or before July 22, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–16570 Filed 6–30–11; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(a)(ii).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64754; File No. SR–BATS–2011–015]

Self-Regulatory Organizations; BATS Exchange, Inc.; Order Approving a Proposed Rule Change To Amend BATS Rule 11.9, Entitled ''Orders and Modifiers'' and BATS Rule 11.13, Entitled ''Order Execution''

June 27, 2011.

I. Introduction

On May 9, 2011, BATS Exchange, Inc. (the''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19–4 thereunder,[2] a proposed rule change to amend BATS Rule 11.9, entitled ''Orders and Modifiers'' and BATS Rule 11.13, entitled ''Order Execution.'' The proposed rule change was published for comment in the **Federal Register** on May 18, 2011.[3] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description

First, the Exchange proposes to change its order handling procedures to allow both Non-Displayed Orders [4] and orders subject to price sliding that are not executable at their most aggressive price to be executed in the manner and under the circumstances described below.[5] Second, the Exchange proposes to modify the Exchange's rules to make clear that an order subject to ''NMS price sliding'' [6] can be ranked at the same price as an order displayed on the other side of the BATS Book,[7] although temporarily not executable at that price and displayed at one minimum price variation less aggressive than its price.

The Exchange's first proposed change noted above, amending BATS Rules 11.9 and 11.13, is intended to address two specific scenarios that currently exist on the Exchange: (1) Non-Displayed Orders posted opposite same-priced displayed orders and (2) orders subject to price sliding under BATS Rule 11.9(g) that are ranked at a price equal to an opposite-side displayed order (collectively ''Resting Orders'').[8] These two scenarios can occur when an order on either side of the market is a BATS Post Only Order.[9] Consistent with the Exchange's current rule regarding priority of orders, BATS Rule 11.12, these Resting Orders cannot be executed by the Exchange pursuant to BATS Rule 11.13 when such orders would be executed at prices equal to displayed orders on the opposite side of the market (the ''locking price'') because if the incoming orders were allowed to execute against such Resting Orders at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19–4.

[3] *See* Securities Exchange Act Release No. 64475 (May 12, 2011); 76 FR 28830 (''Notice'').

[4] BATS Rule 11.9(c)(11) defines a Non-Displayed Order as ''a market or limit order that is not displayed on the Exchange.''

[5] The reference to the most ''aggressive'' price means for bids the highest price the User is willing to pay, and for offers the lowest price at which the User is willing to sell.

[6] For bids, this means that a price slid order is displayed at one minimum price variation less than the current national best offer (''NBO''), and for offers, this means that a price slid order is displayed at one minimum price variation more than the current national best bid (''NBB''). *See* BATS Rule 11.9(g)(1).

[7] As defined in BATS Rule 1.5(e), the BATS Book is ''the System's electronic file of orders.''

[8] *See* Notice, *supra* note 3.

[9] *See id.* As defined in BATS Rule 11.9(c)(6), a BATS Post Only Order is ''[a]n order that is to be ranked and executed on the Exchange pursuant to Rule 11.12 and Rule 11.13(a)(1) or cancelled, as appropriate, without routing away to another trading center except that the order will not remove liquidity from the BATS Book.'' Accordingly, a BATS Post Only Order does not remove liquidity, but posts to the BATS Book to the extent permissible.

the locking price, such incoming orders would receive a priority advantage over the prior, displayed order at the locking price.[10]

The Exchange proposes to provide for the execution of these Resting Orders under certain circumstances. For bids or offers equal to or greater than $1.00 per share, in the event that an order submitted to the Exchange on the side opposite such Resting Order is a market order or a limit order priced more aggressively than the locking price, the Exchange proposes to amend BATS Rule 11.13 to provide for the execution of the Resting Order at, in the case of a Resting Order bid, one-half minimum price variation less than the locking price, and, in the case of a Resting Order offer, at one-half minimum price variation more than the locking price.[11] The Exchange also proposes adding Interpretation and Policy .01 to BATS Rule 11.13 to state that the Exchange will consider it inconsistent with just and equitable principles of trade to engage in a pattern or practice of using Non-Displayed Orders or orders subject to price sliding solely for the purpose of executing such orders at one-half minimum price variation from the locking price.[12] Evidence of such behavior may include, but is not limited to, a User's pattern of entering orders at a price that would lock or be ranked at the price of a displayed quotation and cancelling orders when they no longer lock the displayed quotation.[13] The Exchange has also stated that it will conduct surveillance to ensure that users are not intentionally seeking to create an internally locked book for the purpose of obtaining an execution at a one-half minimum price variation.[14]

The Exchange notes that its proposal to modify its handling of Resting Orders is intended to address specific conditions that are a current, natural consequence of the Exchange's order handling procedures because such orders are priced at the very inside of the market but are temporarily un-executable at their full limit price due to the Exchange's priority rule and order handling procedures.[15] The Exchange believes the proposed change will provide incoming orders with the benefit of price improvement against such aggressively priced Resting Orders.[16] The Exchange believes this will optimize available liquidity for incoming orders and provide price improvement for market participants at times when such participants are not receiving executions from the Exchange or are receiving less price improvement than is currently available.[17]

The Exchange's second proposed change is to clarify, by amending BATS Rule 11.9, that an order subject to NMS price sliding can be ranked at the same price as an order displayed on the other side of the BATS Book.

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act[18] and the rules and regulations thereunder applicable to a national securities exchange.[19] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[20] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Commission finds that the proposal is consistent with Rules 610(d)[21] and 612[22] of Regulation NMS.

The Commission believes that the proposed order handling rule change providing for the execution, under certain circumstances, of certain Non-Displayed Orders and orders subject to price sliding that are not executable at their most aggressive prices should serve to enhance the quality of execution on the Exchange by facilitating executions that would not occur pursuant to the Exchange's current order handling process. In addition to facilitating executions that currently would not take place, the proposed rule change will offer price improvement to the orders executed under the new order handling process. The Commission believes that the new order handling process should benefit market participants by, among other things, providing greater opportunities for buy and sell orders to interact with each other and potentially reducing certain trading costs for market participants. The Commission further believes that any potential abuses are mitigated by the Exchange's addition of Interpretation and Policy .01 to BATS Rule 11.13 and its commitment to monitor relevant trading on its market. Additionally, the Commission believes that this proposed order handling process is consistent with Rule 612 of Regulation NMS because any executions in an increment smaller than $0.01 are the result of bids, offers or orders that are priced in increments at least equal to $0.01.[23] With regard to the proposed rule change clarifying that an order subject to NMS price sliding pursuant to BATS Rule 11.9 can be ranked at the same price as an order displayed on the other side of the BATS Book, the Commission believes that such clarification is consistent with Rule 610(d) of Regulation NMS because the proposed rule change would not result in the display of a locking quotation.[24]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[25] that the proposed rule change (SR–BATS–2011–015) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–16551 Filed 6–30–11; 8:45 am]

BILLING CODE 8011–01–P

[10] *See id.*

[11] *See* proposed changes to BATS Rule 11.13(a)(1). For bids or offers under $1.00 per share, Resting Orders priced at the locking price will not be executed by the Exchange. *Id.*

[12] *See* proposed Interpretation and Policy .01 to BATS Rule 11.13.

[13] *See id.*

[14] *See* Notice, *supra* note 3.

[15] *See id.* The Exchange further notes that by permitting a Member's Non-Displayed Order to rest at a locking price on the other side of a displayed order, the Exchange is incenting Members to post aggressively priced liquidity, rather than discouraging such liquidity by leaving it unexecuted. *Id.*

[16] *See id.* In addition, if the BATS Book changes so that such orders are no longer resting or ranked opposite a displayed order, then such orders will again be executable at their full limit price, and in the case of price slid orders, will be displayed at that price. *Id.*

[17] *See id.*

[18] 15 U.S.C. 78f.

[19] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 15 U.S.C. 78f(b)(5).

[21] SEC Rule 610(d) of Regulation NMS requires policies and procedures to avoid the display of quotations that lock or cross protected quotations. 17 CFR 242.610(d).

[22] SEC Rule 612 of Regulation NMS states that no national securities exchange, national securities association, alternative trading system, vendor, or broker or dealer shall display, rank, or accept from any person a bid or offer, an order, or an indication of interest in any NMS stock priced in an increment smaller than $0.01 if that bid or offer, order, or indication of interest is priced equal to or greater than $1.00 per share. 17 CFR 242.612.

[23] *See* Rule 612 of Regulation NMS. 17 CFR 242.612.

[24] *See* Rule 610(d) of Regulation NMS. 17 CFR 242.610(d).

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64753; File No. SR–BYX–2011–009]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Order Approving a Proposed Rule Change To Amend BYX Rule 11.9, Entitled ''Orders and Modifiers'' and BYX Rule 11.13, Entitled ''Order Execution''

June 27, 2011.

I. Introduction

On May 9, 2011, BATS Y-Exchange, Inc.. (The ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend BYX Rule 11.9, entitled ''Orders and Modifiers'' and BYX Rule 11.13, entitled ''Order Execution.'' The proposed rule change was published for comment in the **Federal Register** on May 18, 2011.[3] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description

First, the Exchange proposes to change its order handling procedures to allow both Non-Displayed Orders [4] and orders subject to price sliding that are not executable at their most aggressive price to be executed in the manner and under the circumstances described below.[5] Second, the Exchange proposes to modify the Exchange's rules to make clear that an order subject to ''NMS price sliding'' [6] can be ranked at the same price as an order displayed on the other side of the BATS Book,[7] although temporarily not executable at that price and displayed at one minimum price variation less aggressive than its price.

The Exchange's first proposed change noted above, amending BYX Rules 11.9 and 11.13, is intended to address two specific scenarios that currently exist on the Exchange: (1) Non-Displayed Orders posted opposite same-priced displayed orders and (2) orders subject to price sliding under BYX Rule 11.9(g) that are ranked at a price equal to an opposite-side displayed order (collectively ''Resting Orders'').[8] These two scenarios can occur when an order on either side of the market is a BATS Post Only Order.[9] Consistent with the Exchange's current rule regarding priority of orders, BYX Rule 11.12, these Resting Orders cannot be executed by the Exchange pursuant to BYX Rule 11.13 when such orders would be executed at prices equal to displayed orders on the opposite side of the market (the ''locking price'') because if the incoming orders were allowed to execute against such Resting Orders at the locking price, such incoming orders would receive a priority advantage over the prior, displayed order at the locking price.[10]

The Exchange proposes to provide for the execution of these Resting Orders under certain circumstances. For bids or offers equal to or greater than $1.00 per share, in the event that an order submitted to the Exchange on the side opposite such Resting Order is a market order or a limit order priced more aggressively than the locking price, the Exchange proposes to amend BYX Rule 11.13 to provide for the execution of the Resting Order at, in the case of a Resting Order bid, one-half minimum price variation less than the locking price, and, in the case of a Resting Order offer, at one-half minimum price variation more than the locking price.[11] The Exchange also proposes adding Interpretation and Policy .01 to BYX Rule 11.13 to state that the Exchange will consider it inconsistent with just and equitable principles of trade to engage in a pattern or practice of using Non-Displayed Orders or orders subject to price sliding solely for the purpose of executing such orders at one-half minimum price variation from the locking price.[12] Evidence of such behavior may include, but is not limited to, a User's pattern of entering orders at a price that would lock or be ranked at the price of a displayed quotation and cancelling orders when they no longer lock the displayed quotation.[13] The Exchange has also stated that it will conduct surveillance to ensure that users are not intentionally seeking to create an internally locked book for the purpose of obtaining an execution at a one-half minimum price variation.[14]

The Exchange notes that its proposal to modify its handling of Resting Orders is intended to address specific conditions that are a current, natural consequence of the Exchange's order handling procedures because such orders are priced at the very inside of the market but are temporarily un-executable at their full limit price due to the Exchange's priority rule and order handling procedures.[15] The Exchange believes the proposed change will provide incoming orders with the benefit of price improvement against such aggressively priced Resting Orders.[16] The Exchange believes this will optimize available liquidity for incoming orders and provide price improvement for market participants at times when such participants are not receiving executions from the Exchange or are receiving less price improvement than is currently available.[17]

The Exchange's second proposed change is to clarify, by amending BYX Rule 11.9, that an order subject to NMS price sliding can be ranked at the same price as an order displayed on the other side of the BATS Book.

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act [18] and the rules and regulations thereunder applicable to a national securities exchange.[19] In

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 64476 (May 12, 2011); 76 FR 28826 (''Notice'').

[4] BYX Rule 11.9(c)(11) defines a Non-Displayed Order as ''a market or limit order that is not displayed on the Exchange.''

[5] The reference to the most ''aggressive'' price means for bids the highest price the User is willing to pay, and for offers the lowest price at which the User is willing to sell.

[6] For bids, this means that a price slid order is displayed at one minimum price variation less than the current national best offer (''NBO''), and for offers, this means that a price slid order is displayed at one minimum price variation more than the current national best bid (''NBB''). *See* BYX Rule 11.9(g)(1).

[7] As defined in BYX Rule 1.5(e), the BATS Book is ''the System's electronic file of orders.''

[8] *See* Notice, *supra* note 3.

[9] *See id.* As defined in BYX Rule 11.9(c)(6), a BATS Post Only Order is ''[a]n order that is to be ranked and executed on the Exchange pursuant to Rule 11.12 and Rule 11.13(a)(1) or cancelled, as appropriate, without routing away to another trading center except that the order will not remove liquidity from the BATS Book.'' Accordingly, a BATS Post Only Order does not remove liquidity, but posts to the BATS Book to the extent permissible.

[10] *See id.*

[11] *See* proposed changes to BYX Rule 11.13(a)(1). For bids or offers under $1.00 per share, Resting Orders priced at the locking price will not be executed by the Exchange. *Id.*

[12] *See* proposed Interpretation and Policy .01 to BYX Rule 11.13.

[13] *See id.*

[14] *See* Notice, *supra* note 3.

[15] *See id.* The Exchange further notes that by permitting a Member's Non-Displayed Order to rest at a locking price on the other side of a displayed order, the Exchange is incenting Members to post aggressively priced liquidity, rather than discouraging such liquidity by leaving it unexecuted. *Id.*

[16] *See id.* In addition, if the BATS Book changes so that such orders are no longer resting or ranked opposite a displayed order, then such orders will again be executable at their full limit price, and in the case of price slid orders, will be displayed at that price. *Id.*

[17] *See id.*

[18] 15 U.S.C. 78f.

[19] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[20] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Commission finds that the proposal is consistent with Rules 610(d) [21]and 612 [22] of Regulation NMS.

The Commission believes that the proposed order handling rule change providing for the execution, under certain circumstances, of certain Non-Displayed Orders and orders subject to price sliding that are not executable at their most aggressive prices should serve to enhance the quality of execution on the Exchange by facilitating executions that would not occur pursuant to the Exchange's current order handling process. In addition to facilitating executions that currently would not take place, the proposed rule change will offer price improvement to the orders executed under the new order handling process. The Commission believes that the new order handling process should benefit market participants by, among other things, providing greater opportunities for buy and sell orders to interact with each other and potentially reducing certain trading costs for market participants. The Commission further believes that any potential abuses are mitigated by the Exchange's addition of Interpretation and Policy .01 to BYX Rule 11.13 and its commitment to monitor relevant trading on its market. Additionally, the Commission believes that this proposed order handling process is consistent with Rule 612 of Regulation NMS because any executions in an increment smaller than $0.01 are the result of bids, offers or orders that are priced in increments at least equal to $0.01.[23] With regard to the proposed rule change clarifying that an order subject to NMS price sliding pursuant to BYX Rule 11.9 can be ranked at the same price as an order displayed on the other side of the BATS Book, the Commission believes that such clarification is consistent with Rule 610(d) of Regulation NMS because the proposed rule change would not result in the display of a locking quotation.[24]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[25] that the proposed rule change (SR–BYX–2011–009) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–16550 Filed 6–30–11; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78f(b)(5).

[21] SEC Rule 610(d) of Regulation NMS requires policies and procedures to avoid the display of quotations that lock or cross protected quotations. 17 CFR 242.610(d).

[22] SEC Rule 612 of Regulation NMS states that no national securities exchange, national securities association, alternative trading system, vendor, or broker or dealer shall display, rank, or accept from any person a bid or offer, an order, or an indication of interest in any NMS stock priced in an increment smaller than $0.01 if that bid or offer, order, or indication of interest is priced equal to or greater than $1.00 per share. 17 CFR 242.612.

[23] *See* Rule 612 of Regulation NMS. 17 CFR 242.612.

[24] *See* Rule 610(d) of Regulation NMS. 17 CFR 242.610(d).

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–64744; File No. SR–NASDAQ–2011–086]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7034 Regarding Co-Location Fees for Additional Power and Cable Options

June 24, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 23, 2011, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7034 regarding co-location fees for additional power and cable options. The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/*, at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 7034 regarding co-location fees for additional power and cable options. The Exchange proposes to offer a new choice of a pair of power receptacles (60 amps 208 volts), which would provide enough power for a high density cabinet. The proposed fee for installation of the pair of the 60-amp 208-volt power receptacles is $3,000. There are ten other power choices already available and this new receptacle choice is being offered as more clients are requesting higher power density cabinets. Additionally, the Exchange proposes to offer a new choice of patch cable, twinaxial (otherwise known as ''Twinax'') cables, in lengths of one meter to five meters. The proposed fee for the Twinax cables is $34 + $10 per meter. The Exchange is making the Twinax cables available as a convenience to customers, and notes that use of Exchange-provided patch cords is completely voluntary, and that such patch cords may be freely obtained from other vendors for use by customers in the datacenter.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[3] in general, and with Section 6(b)(4) of the Act,[4] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(4).

which the Exchange operates or controls.

The Exchange operates in a highly competitive market, in which exchanges offer co-location services as a means to facilitate the trading activities of those members who believe that co-location enhances the efficiency of their trading. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of such members. If a particular exchange charges excessive fees for co-location services, affected members will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including co-locating with a different exchange, placing their servers in a physically proximate location outside the exchange's data center, or pursuing trading strategies not dependent upon co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also revenues associated with the execution of orders routed to it by affected members. The Exchange believes that this competitive dynamic imposes powerful restraints on the ability of any exchange to charge unreasonable fees for co-location services.

It should be noted, however, that the costs associated with operating a co-location facility, like the costs of operating the electronic trading facility with which the co-location facility is associated, are primarily fixed costs, and in the case of co-location are primarily the costs of renting or owning data center space and retaining a staff of technical personnel. Accordingly, the Exchange establishes a range of co-location fees with the goal of covering these fixed costs, covering less significant marginal costs, such as the cost of electricity, and providing the Exchange a profit to the extent the costs are covered. Because fixed costs must be allocated among all customers, the Exchange's fee schedule reflects an effort to assess a range of relatively low fees for specific aspects of co-location services, which, in the aggregate, will allow the Exchange to cover its costs and to the extent the costs are covered, allow the Exchange to earn a profit.

In the case of the proposed fees for a pair of the 60-amp power receptacles and the Twinax cables, the proposed fees cover the marginal costs of establishing and maintaining the electrical installation, the costs of obtaining the cable equipment from the Exchange's vendors, and allow the Exchange to earn a profit; to the extent the costs are covered. Accordingly, the Exchange believes that it is reasonable to use fees assessed on this basis as a means to recoup a share of fixed costs associated with the proposed power and cable options, provide a convenience for the customers and to the extent the costs are covered, provide a profit to the Exchange.

The Exchange also notes that the fees charged by the Exchange are generally lower or comparable to prices charged by other exchanges or unregulated vendors for similar services. For instance, NYSE Arca, Inc. charges for the power installation by including it in a higher install for the co-location cabinet.[5] With respect to the proposed fees for Twinax cables, the fees charged by the Exchange are generally lower or comparable to prices charged by unregulated vendors for similar products. *See http://www.google.com/products/catalog?hl=en&biw=1259&bih=813&q=Twinax+cable&um=1&ie=UTF-8&tbm=shop&cid=15023972358025904938&sa=X&ei=8tDfTaOwIcHagQeVu6DUCg&ved=0CDcQ8wIwAw#*.

Furthermore, because the proposed services are available to all members through optional co-location services, the Exchange's fees for proposed co-location services are reasonable and equitably allocated across the membership. All co-location customers are offered the same range of products and services and there is no differentiation among customers with regard to the fees charged for a particular product, service, or piece of equipment.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[6] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2011–086 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2011–086. This file number should be included on the subject line if e-mail is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All

[5] *See* Release No. 63275 (November 8, 2010) at page 4, 75 FR 70048 (November 16, 2010) (SR–NYSEArca–2010–100).

[6] 15 U.S.C. 78s(b)(3)(a)(ii) [sic].

submissions should refer to File Number SR–NASDAQ–2011–086, and should be submitted on or before July 22, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Cathy H. Ahn,

Deputy Secretary.

[FR Doc. 2011–16538 Filed 6–30–11; 8:45 am]

BILLING CODE 8011–01–P

U.S. SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12560 and #12561]

Arkansas Disaster Number AR–00048

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 8.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Arkansas (FEMA–1975–DR), dated 05/02/2011.

Incident: Severe Storms, Tornadoes, and Associated Flooding.

Incident Period: 04/14/2011 through 06/03/2011.

Effective Date: 06/22/2011.

Physical Loan Application Deadline Date: 08/01/2011.

EIDL Loan Application Deadline Date: 02/02/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of ARKANSAS, dated 05/02/2011 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Desha, Carroll, Chicot, Clark, Crawford, Dallas, Hot Spring.

Contiguous Counties: (Economic Injury Loans Only):

Arkansas: Ashley, Calhoun, Nevada, Ouachita, Sebastian.

Louisiana: East Carroll, Morehouse, West Carroll.

Mississippi: Issaquena, Washington.

Missouri: Stone.

Oklahoma: Sequoyah.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2011–16529 Filed 6–30–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12586 and #12587]

North Dakota Disaster Number ND–00025

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 3.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of North Dakota (FEMA–1981–DR), dated 05/10/2011.

Incident: Flooding.

Incident Period: 02/14/2011 and continuing.

Effective Date: 06/23/2011.

Physical Loan Application Deadline Date: 07/11/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 02/10/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of North Dakota, dated 05/10/2011, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Mckenzie.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2011–16530 Filed 6–30–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12530 and #12531]

North Carolina Disaster Number NC–00033

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 4.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of North Carolina (FEMA–1969–DR), dated 04/19/2011.

Incident: Severe Storms, Tornadoes, and Flooding.

Incident Period: 04/16/2011.

Effective Date: 06/22/2011.

Physical Loan Application Deadline Date: 07/05/2011.

EIDL Loan Application Deadline Date: 01/20/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of North Carolina, dated 04/19/2011 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Alamance.

Contiguous Counties: (Economic Injury Loans Only):

North Carolina: Caswell, Guilford, Orange, Randolph, Rockingham.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2011–16531 Filed 6–30–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional ''peg'' rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This

[7] 17 CFR 200.30–3(a)(12).

rate will be 3.625 (3⅝) percent for the July–September quarter of FY 2011.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for any third party lender's commercial loan which funds any portion of the cost of a 504 project (*see* 13 CFR 120.801) shall be 6% over the New York Prime rate or, if that exceeds the maximum interest rate permitted by the constitution or laws of a given State, the maximum interest rate will be the rate permitted by the constitution or laws of the given State.

Walter C. Intlekofer,

Acting Director, Office of Financial Assistance.

[FR Doc. 2011–16581 Filed 6–30–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12653 and #12654]

North Dakota Disaster #ND–00024

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of North Dakota (FEMA–1981–DR), dated 06/24/2011.

Incident: Flooding.

Incident Period: 02/14/2011 and continuing.

Effective Date: 06/24/2011.

Physical Loan Application Deadline Date: 08/23/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 03/21/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 06/24/2011, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Burleigh, Ward.

Contiguous Counties (Economic Injury Loans Only):

North Dakota: Burke, Emmons, Kidder, Mchenry, Mclean, Morton, Mountrail, Oliver, Renville, Sheridan.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	5.125
Homeowners without Credit Available Elsewhere	2.563
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	4.000
Non-profit Organizations with Credit Available Elsewhere	3.250
Non-profit organizations without Credit Available Elsewhere	3.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 126536 and for economic injury is 126540.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–16580 Filed 6–30–11; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #12651 and #12652]

Indiana Disaster #IN–00037

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Indiana (FEMA–1997–DR), dated 06/23/2011.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 04/19/2011 and continuing.

Effective Date: 06/23/2011.

Physical Loan Application Deadline Date: 08/22/2011.

Economic Injury (EIDL) Loan Application Deadline Date: 03/23/2012.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 06/23/2011, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Benton, Clark, Crawford, Daviess, Dearborn, Dubois, Floyd, Franklin, Gibson, Harrison, Jackson, Jefferson, Jennings, Knox, Martin, Monroe, Ohio, Orange, Parke, Perry, Pike, Posey, Putnam, Ripley, Scott, Spencer, Starke, Sullivan, Switzerland, Vanderburgh, Warrick, Washington.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere	3.250
Non-Profit Organizations without Credit Available Elsewhere	3.000
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	3.000

The number assigned to this disaster for physical damage is 12651B and for economic injury is 12652B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2011–16582 Filed 6–30–11; 8:45 am]

BILLING CODE 8025–01–P

TENNESSEE VALLEY AUTHORITY

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: 60-Day notice of submission of information collection approval and request for comments.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments

on this proposed collection as provided by 5 CFR Section 1320.8(d)(1).

ADDRESSES: Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Mark Winter, Tennessee Valley Authority, 1101 Market Street (MP–3C), Chattanooga, Tennessee 37402–2801; (423) 751–6004.

DATES: Comments should be sent to the Agency Clearance Officer no later than *August 30, 2011.*

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission.

Title of Information Collection: Land Use Survey Questionnaire—Vicinity of Nuclear Power Plants.

Frequency of Use: Annual.

Type of Affected Public: Individuals or households, and farms.

Small Businesses or Organizations Affected: No.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 150.

Estimated Total Annual Burden Hours: 37.5.

Estimated Average Burden Hours per Response: .25.

Need for and Use of Information: This survey is used to locate, for monitoring purposes, rural residents, home gardens, and milk animals within a five mile radius of a nuclear power plant. The monitoring program is a mandatory requirement of the Nuclear Regulatory Commission set out in the technical specifications when the plants were licensed.

Michael T. Tallent,

Director, Enterprise Information Security & Policy (Acting).

[FR Doc. 2011–16564 Filed 6–30–11; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2011–0107]

Interim Notice of Funding Availability for the Department of Transportation's National Infrastructure Investments Under the Full-Year Continuing Appropriations, 2011; and Request for Comments

AGENCY: Office of the Secretary of Transportation, DOT.

ACTION: Interim notice of funding availability, request for comments.

SUMMARY: This interim notice announces the availability of funding and requests proposals for the Department of Transportation's National Infrastructure Investments, or ''TIGER Discretionary Grants.'' In addition, this interim notice announces selection criteria and pre-application and application requirements for these grants.

On April 15, 2011, the President signed the Full-Year Continuing Appropriations, 2011 (Div. B of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112–010, Apr. 15, 2011)) (''FY 2011 Continuing Appropriations Act''). The FY 2011 Continuing Appropriations Act appropriated $526.944 million to be awarded by the Department of Transportation (''DOT'') for National Infrastructure Investments. This appropriation is similar, but not identical to the appropriation for the Transportation Investment Generating Economic Recovery, or ''TIGER Discretionary Grant'', program authorized and implemented pursuant to the American Recovery and Reinvestment Act of 2009 (the ''Recovery Act''), and the National Infrastructure Investments or ''TIGER II Discretionary Grant'' program under the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act for 2010 (''FY 2010 Appropriations Act''). Because of the similarity in program structure, DOT has referred to the grants for National Infrastructure Investments under the FY 2010 Appropriations Act as ''TIGER II Discretionary Grants''. Given that funds have now been appropriated for these similar programs in three separate statutes, DOT is referring to the grants for National Infrastructure Investments under the FY 2011 Continuing Appropriations Act simply as ''TIGER Discretionary Grants.'' As with the TIGER and TIGER II programs, funds for the FY2011 TIGER program are to be awarded on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area or a region. Through this interim notice, DOT is soliciting applications for TIGER Discretionary Grants.

This interim notice requests comments on the proposed selection criteria and guidance for awarding funds. DOT will take all comments into consideration and may publish a supplemental notice revising some elements of this notice. If substantive changes to this notice are necessary, DOT will publish a supplemental Federal Register notice. In the event that this solicitation does not result in the award and obligation of all available funds, DOT may decide to publish an additional solicitation(s).

DATES: Comments must be received by July 18, 2011, at 5 p.m. EDT. Late-filed comments will be considered to the extent practicable. Pre-applications should be submitted by October 3, 2011, at 5 p.m. EDT (the ''Pre-Application Deadline''). Final applications must be submitted through Grants.gov by October 31, 2011, at 5 p.m. EDT (the ''Application Deadline''). The DOT pre-application system will open on or before August 23, 2011 to allow prospective applicants to submit pre-applications. Subsequently, the Grants.gov ''Apply'' function will open on October 5, 2011, allowing applicants to submit applications. While applicants are encouraged to submit pre-applications in advance of the Pre-Application Deadline, pre-applications will not be reviewed until after the pre-application deadline. Similarly, while applicants are encouraged to submit applications in advance of the Application Deadline, applications will not be evaluated, and awards will not be made, until after the Application Deadline.

ADDRESSES: *For Comments:* You must include the agency name (Office of the Secretary of Transportation) and the docket number DOT–OST–2011–0107 with your comments. To ensure that your comments are not entered into the docket more than once, please submit comments, identified by the docket number DOT–OST–2011–0107, by only one of the following methods:

Web site: The U.S. Government electronic docket site is *http://www.regulations.gov.* Go to this Web site and follow the instructions for submitting comments into docket number DOT–OST–2011–0107;

Fax: Telefax comments to 202–493–2251;

Mail: Mail your comments to U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, Room W12–140, Washington, DC 20590; or

Hand Delivery: Bring your comments to the U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M–30, West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions for submitting comments: You must include the agency name (Office of the Secretary of Transportation) and Docket number DOT–OST–2011–0107 for this notice at the beginning of your comments. You should submit two copies of your comments if you submit them by mail or courier. For confirmation that the

Office of the Secretary of Transportation has received your comments, you must include a self-addressed stamped postcard. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided, and will be available to Internet users. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *http://www.regulations.gov.*

For Pre-Applications and Applications: Pre-applications must be submitted electronically to DOT and applications must be submitted electronically through Grants.gov. Only pre-applications received by DOT and applications received through Grants.gov will be deemed properly filed. Instructions for submitting pre-applications to DOT and applications through Grants.gov are included in Section VII *(Pre-Application and Application Cycle).*

FOR FURTHER INFORMATION CONTACT: For further information concerning this notice please contact the TIGER Discretionary Grant program manager via e-mail at *TIGERGrants@dot.gov,* or call Robert Mariner at 202–366–8914. A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993. In addition, DOT will regularly post answers to questions and requests for clarifications on DOT's Web site at *http://www.dot.gov/TIGER.*

SUPPLEMENTARY INFORMATION: This notice is substantially similar to the Final notice published for the TIGER II Discretionary Grant program in the **Federal Register** on June 1, 2010. However, there are a few significant differences that applicants should be aware of. These differences are as follows:

1. Unlike the FY 2010 Appropriations Act, the FY 2011 Continuing Appropriations Act does not provide any funding for projects solely for the planning, preparation, or design of capital projects (''TIGER Planning Grants''); however these activities may be eligible to the extent that they are part of an overall construction project that receives TIGER Discretionary Grants funding

2. As specified in section VI of this notice, any applicant that is applying for a TIGER TIFIA Payment must also submit a TIFIA letter of interest along with their application.

3. As specified in section VII (A) of this notice, eligible applicants may submit, as a lead applicant, no more than three applications for consideration. However, multistate applications, will not count towards the lead applicant's three application limit. Additionally, applicants may be identified as a partnering agency on the application of another lead applicant and such an application will not count towards a partnering applicant's three application limit as a lead applicant. Other than these differences, and minor edits made to conform the notice to the factual circumstances of this round of TIGER funding, there have been no material changes made to the notice. Each section of this notice contains information and instructions relevant to the application process for these TIGER Discretionary Grants and prospective applicants should read this notice in its entirety so that they have the information they need to submit eligible and competitive applications.

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I. Background

Recovery Act TIGER and Fiscal Year 2010 TIGER II Discretionary Grants

On February 17, 2009, the President of the United States signed the Recovery Act, which appropriated $1.5 billion of discretionary grant funds to be awarded by DOT for capital investments in surface transportation infrastructure. DOT has referred to these grants as Grants for Transportation Investment Generating Economic Recovery or ''TIGER Discretionary Grants''. DOT solicited applications for TIGER Discretionary Grants through a notice of funding availability published in the **Federal Register** on June 17, 2009 (an interim notice was published on May 18, 2009). Applications for TIGER Discretionary Grants were due on September 15, 2009 and DOT received over 1400 applications with funding requests totaling almost $60 billion. Funding for 51 projects totaling nearly $1.5 billion was announced on February 17, 2010.

On December 16, 2009, the President signed the FY 2010 Appropriations Act that appropriated $600 million to DOT for National Infrastructure Investments using language that was similar, but not identical, to the language in the Recovery Act authorizing the TIGER Discretionary Grants. DOT has referred to those grants for National Infrastructure Investments as TIGER II Discretionary Grants.

The FY 2010 Appropriations Act permitted DOT to use an amount not to exceed $35 million of the available TIGER II funds for projects that involved solely the planning, preparation, or design of Eligible Projects, and not their construction (''TIGER II Planning Grants''). The Recovery Act did not explicitly provide funding for similar activities under the TIGER Discretionary Grant program.

DOT solicited applications for TIGER II Discretionary Grants through a notice of funding availability published in the **Federal Register** on June 1, 2010 (an interim notice was published on April 26, 2010). Applications for TIGER II Discretionary Grants were due on August 23, 2010 and nearly 1700 applications were received with funding requests totaling about $21 billion. Funding awards for 42 capital projects totaling nearly $557 million were announced on October 20, 2010. Grant announcements ranged from $1.01 million to $47.6 million for individual capital projects, with an average award size of approximately $13.25 million; the median award amount was $10.5 million. Additionally, funding for 33 planning projects totaling nearly $28 million was announced on October 20, 2010. TIGER II Planning Grant announcements ranged from $85 thousand to $2.8 million for individual projects, with an average award size of approximately $835 thousand; the median award size was $720 thousand. Fourteen TIGER II Planning Grant recipients received HUD Sustainable Community Challenge Grants that were also announced on October 20, 2010. Projects were selected for funding based on their alignment with the selection criteria specified in the June 1, 2010, **Federal Register** notice for the TIGER II Discretionary Grant program.

On April 15, 2011, the President signed the FY 2011 Continuing Appropriations Act. This Act appropriated $526.944 million to DOT for National Infrastructure Investments using language that is similar, but not identical to the language in the FY 2010 Appropriations Act authorizing the TIGER II Discretionary Grants. DOT is referring to these grants for National Infrastructure Investments as TIGER Discretionary Grants.

The most significant difference between the 2010 and 2011 appropriations is that there is no funding available for TIGER Planning Grants in the 2011 Act.

Section 1101 of the FY 2011 Continuing Appropriations Act, Title I—General Provisions, states that the appropriations are for such amounts as may be necessary, at the level specified and under the authority and conditions provided in applicable appropriations Act for fiscal year 2010, for projects or activities for which appropriations, funds, or other authority were made available under the Consolidated Appropriations Act, 2010 (Pub. L. 111–117). Because of this general provision in the FY 2011 Continuing Appropriations Act, DOT is applying the authority and conditions outlined in the following section.

FY 2011 TIGER Discretionary Grants

Like the TIGER and TIGER II Discretionary Grants, this year's TIGER Discretionary Grants are for capital investments in surface transportation infrastructure and are to be awarded on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region. Key requirements of the TIGER Discretionary Grant program are summarized below, and material differences from the previous TIGER Discretionary Grant programs are highlighted.

''Eligible Applicants'' for TIGER Discretionary Grants are State, local, and tribal governments, including U.S. territories, tribal governments, transit agencies, port authorities, metropolitan planning organizations (MPOs), other political subdivisions of State or local governments, and multi-State or multi-jurisdictional groups applying through a single lead applicant (for multi-jurisdictional groups, each member of the group, including the lead applicant, must be an otherwise eligible applicant as defined in this paragraph).

Projects that are eligible for TIGER Discretionary Grants under the FY 2011 Continuing Appropriations Act (''Eligible Projects'') include, but are not limited to: (1) highway or bridge projects eligible under title 23, United States Code; (2) public transportation projects eligible under chapter 53 of title 49, United States Code; (3) passenger and freight rail transportation projects; and (4) port infrastructure investments. Federal wage rate requirements included in subchapter IV of chapter 31 of title 40, United States Code, apply to all projects receiving funds. This description of Eligible Projects is identical to the description of eligible projects under the TIGER II Discretionary Grant program.[1]

However, while in the past applicants could submit as many applications as they wished, for the Fiscal Year 2011 TIGER Discretionary Grant Program, to help ensure that applicants submit only those applications that are most likely to align well with DOT's selection criteria, each applicant may submit no more than three applications for consideration. While applications may include requests to fund more than one project, applicants should not bundle together unrelated projects in the same application for purposes of avoiding the three application limit that applies to each applicant. Please note that the three application limit applies only to applications where the applicant is the lead applicant, and there is no limit on applications for which an applicant can be listed as a partnering agency. Also, DOT will not count any application for a multistate project against the three application limit to the extent multiple states are partnering to submit the application.

The FY 2011 Continuing Appropriations Act requires a new solicitation of applications and, therefore, any unsuccessful applicant for a TIGER or TIGER II Discretionary Grant that wishes to be considered for a TIGER Discretionary Grant this year must reapply according to the procedures in this notice. Additionally, TIGER II planning grant recipients must reapply to be considered for a TIGER Discretionary Grant for capital funding, if they meet the eligibility criteria and schedule requirements for TIGER and are ready to proceed to the construction phase of the project.

The FY 2011 Continuing Appropriations Act specifies that TIGER Discretionary Grants may be not less than $10 million (except in rural areas) and not greater than $200 million. Based on DOT's experience with the TIGER and TIGER II Discretionary Grant programs, it is unlikely that the $200 million maximum grant size for this year's TIGER Discretionary Grant program will be reached for any project. The FY 2011 Continuing Appropriations Act, like the FY 2010 Appropriations Act, does not provide authority to waive the minimum $10 million grant size for TIGER Discretionary Grants. For projects located in rural areas (as defined in section V *(Projects in Rural Areas)*), the minimum TIGER Discretionary Grant size is $1 million, as it was in the FY 2010 Appropriations Act. The term ''grant'' in the provision of the FY 2011 Continuing Appropriations Act specifying a minimum grant size does not include TIGER TIFIA Payments, as defined below.

Pursuant to the FY 2011 Continuing Appropriations Act, no more than 25 percent of the funds made available for TIGER Discretionary Grants (or $131.736 million) may be awarded to projects in a single State. This maximum State share is consistent with the maximum State share under the TIGER II Discretionary Grants program. The comparable figure for TIGER II Discretionary Grants was also 25 percent (or $150 million).

The FY 2011 Continuing Appropriations Act directs that not less than $140 million of the funds provided for TIGER Discretionary Grants is to be used for projects located in rural areas. The comparable amount set aside for rural areas under the FY 2010 Appropriations Act was also $140 million. In awarding TIGER Discretionary Grants pursuant to the FY 2011 Continuing Appropriations Act, DOT must take measures to ensure an equitable geographic distribution of grant funds, an appropriate balance in addressing the needs of urban and rural areas and the investment in a variety of transportation modes. The FY 2010 Appropriations Act included the same provisions for the TIGER II Discretionary Grant program.

TIGER Discretionary Grants may be used for up to 80 percent of the costs of a project, but priority must be given to projects for which Federal funding is required to complete an overall financing package and projects can increase their competitiveness by demonstrating significant non-Federal contributions.[2] The FY 2010

[1] Consistent with the FY 2011 Continuing Appropriations Act, DOT will apply the following principles in determining whether a project is eligible as a capital investment in surface transportation: (1) Surface transportation facilities generally include roads, highways and bridges, ports, freight and passenger railroads, transit systems, and projects that connect transportation facilities to other modes of transportation; and (2) surface transportation facilities also include any highway or bridge project eligible under title 23, U.S.C., or public transportation project eligible under chapter 53 of title 49, U.S.C. Please note that the Department may use a TIGER Discretionary Grant to pay for the surface transportation components of a broader project that has non-surface transportation components, and applicants are encouraged to apply for TIGER Discretionary Grants to pay for the surface transportation components of these projects.

[2] DOT will consider any non-Federal funds for purposes of meeting the 20 percent match requirement, whether such funds are contributed by the public sector (State or local) or the private sector; however, DOT will not consider funds already expended at the time of the award for purposes of meeting the 20 percent match requirement.

Appropriations Act included the same priority for TIGER II Discretionary Grants. Once again for this year's TIGER Discretionary Grants, DOT may increase the Federal share above 80 percent only for projects located in rural areas, in which case DOT may fund up to 100 percent of the costs of a project. Therefore, for projects not located in rural areas, based on the statutory requirements of at least 20 percent non-Federal cost share and a minimum grant size of $10 million, the minimum total project size for an eligible project is $12.5 million (where the minimum $10 million TIGER Discretionary Grant request represents 80 percent of the total project cost). The minimum total project size for an eligible project in a rural area is 1 million (where the entire project cost is funded with a TIGER Discretionary Grant). However, the statutory requirement to give priority to projects that use Federal funds to complete an overall financing package applies to projects located in rural areas as well, and projects located in rural areas can increase their competitiveness for purposes of the TIGER program by demonstrating significant non-Federal financial contributions.

The Recovery Act required DOT to give priority to projects that were expected to be completed by February 17, 2012. Like the FY 2010 Appropriations Act, the FY 2011 Continuing Appropriations Act does not include any similar requirements for the TIGER Discretionary Grants, although this year's TIGER funds are only available for obligation through September 30, 2013. The limited amount of time for which the funds will be made available means that DOT will consider the extent to which a project is ready to proceed with obligation of grant funds when evaluating applications.

The Recovery Act emphasized the generation of near-term economic effects from expenditures on project costs, such as construction job creation. However, the FY 2010 and FY 2011 Continuing Appropriations Acts do not include explicit emphasis on job creation and instead focus more broadly on the impact of projects on the Nation, a metropolitan area, or a region including the medium and long-term benefits that would accrue post-project completion. Therefore, in all cases, TIGER Discretionary Grant applications will need to be competitive on the merits of the medium to long-term impacts of the projects themselves, as demonstrated by a project's alignment with the Long-Term Outcomes selection criterion described in Section II(A) (Selection Criteria) below. However, because communities nationwide continue to face difficult economic circumstances, including high unemployment, DOT will also continue to incorporate near-term impacts like job creation in its evaluation of TIGER applications, as demonstrated by a project's alignment with the Job Creation & Near-Term Economic Activity selection criterion described in Section II(A) below. Consideration of near-term benefits will apply particularly in the case of projects that will employ people in Economically Distressed Areas as discussed in more detail in Section II(A) below.

The FY 2011 Continuing Appropriations Act allows for an amount not to exceed $150 million of the $526.944 million to be used to pay the subsidy and administrative costs of the Transportation Infrastructure Finance and Innovation Act of 1998 (''TIFIA'') program, a Federal credit assistance program, if it would further the purposes of the TIGER Discretionary Grant program. DOT is referring to these payments as ''TIGER TIFIA Payments.'' The FY 2010 Appropriations Act also authorized DOT to use up to $150 million of the amount available for TIGER II Discretionary Grants for similar purposes.

Based on the subsidy amounts required for projects in the TIFIA program's existing portfolio, DOT estimates that $150 million of TIGER TIFIA Payments could support approximately $1.5 billion in TIFIA credit assistance. The amount of budget authority required to support TIFIA credit assistance is calculated on a project-by-project basis. Applicants for TIGER TIFIA Payments should submit an application pursuant to this notice and a separate TIFIA letter of interest, as described below in Section VI (*TIGER TIFIA Payments*). Unless otherwise noted, or the context requires otherwise, references in this notice to TIGER Discretionary Grants include TIGER TIFIA Payments.

DOT reserves the right to offer a TIGER TIFIA Payment to an applicant that applied for a TIGER Discretionary Grant even if DOT does not choose to fund the requested TIGER Discretionary Grant and the applicant did not specifically request a TIGER TIFIA Payment. Therefore, as described below in Section VI (*TIGER TIFIA Payments*), applicants for TIGER Discretionary Grants, particularly applicants that require a substantial amount of funds to complete a financing package, should indicate whether or not they have considered applying for a TIGER TIFIA Payment. To the extent an applicant thinks that TIFIA may be a viable option for the project, applicants should provide a brief description of a project finance plan that includes TIFIA credit assistance and identifies a source of revenue which may be available to support the TIFIA credit assistance.

The FY 2011 Continuing Appropriations Act provides that the Secretary of Transportation may retain up to $25 million of the $526.944 million to fund the award and oversight of TIGER Discretionary Grants. Portions of the $25 million may be transferred for these purposes to the Administrators of the Federal Highway Administration, the Federal Transit Administration, the Federal Railroad Administration, and the Federal Maritime Administration.

The purpose of this notice is to solicit applications for TIGER Discretionary Grants.

TIGER Discretionary Grants

II. Selection Criteria and Guidance on Application of Selection Criteria

This section specifies the criteria that DOT will use to evaluate applications for TIGER Discretionary Grants. The criteria incorporate the statutory eligibility requirements for this program, which are specified in this notice as relevant. This section is divided into two parts. Part A (*Selection Criteria*) specifies the criteria that DOT will use to rate projects. Additional guidance about how DOT will apply these criteria, including illustrative metrics and examples, is provided in Part B (*Additional Guidance on Selection Criteria*).

A. Selection Criteria

TIGER Discretionary Grants will be awarded based on the selection criteria as outlined below. There are two categories of selection criteria, ''Primary Selection Criteria'' and ''Secondary Selection Criteria.''

The Primary Selection Criteria include (1) Long-Term Outcomes and (2) Job Creation & Near-Term Economic Activity. The Secondary Selection Criteria include (1) Innovation and (2) Partnership. The Primary Selection Criteria are intended to capture the primary objective of the TIGER provisions of the FY 2011 Continuing Appropriations Act, which is to invest in infrastructure projects that will have a significant impact on the Nation, a metropolitan area, or a region. The Secondary Selection Criteria are intended to capture the benefits of new and/or innovative approaches to achieving this programmatic objective.

1. Primary Selection Criteria:

(a) Long-Term Outcomes

DOT will give priority to projects that have a significant impact on desirable long-term outcomes for the Nation, a metropolitan area, or a region. Applications that do not demonstrate a likelihood of significant long-term benefits in this criterion will not proceed in the evaluation process. The following types of long-term outcomes will be given priority:

(i) *State of Good Repair:* Improving the condition of existing transportation facilities and systems, with particular emphasis on projects that minimize life-cycle costs.

(ii) *Economic Competitiveness:* Contributing to the economic competitiveness of the United States over the medium- to long-term.

(iii) *Livability:* Fostering livable communities through place-based policies and investments that increase transportation choices and access to transportation services for people in communities across the United States.

(iv) *Environmental Sustainability:* Improving energy efficiency, reducing dependence on oil, reducing greenhouse gas emissions and benefitting the environment.

(v) *Safety:* Improving the safety of U.S. transportation facilities and systems.

(b) Job Creation & Near-Term Economic Activity

While the TIGER Discretionary Grant program is not a Recovery Act program, job creation and near-term economic activity remain a top priority of this Administration; therefore, DOT will give priority (as it did for the TIGER and TIGER II Discretionary Grant programs) to projects that are expected to quickly create and preserve jobs and promote rapid increases in economic activity, particularly jobs and activity that benefit economically distressed areas as defined by section 301 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3161) (''Economically Distressed Areas'').[3]

2. Secondary Selection Criteria

(a) Innovation

DOT will give priority to projects that use innovative strategies to pursue the long-term outcomes outlined above.

(b) Partnership

DOT will give priority to projects that demonstrate strong collaboration among a broad range of participants and/or integration of transportation with other public service efforts.

B. Additional Guidance on Selection Criteria

The following additional guidance explains how DOT will evaluate each of the selection criteria identified above in Section II(A) (Selection Criteria). Applicants are encouraged to demonstrate the responsiveness of a project to any and all of the selection criteria with the most relevant information that applicants can provide, regardless of whether such information has been specifically requested, or identified, in this notice. Any such information shall be considered part of the application, not supplemental, for purposes of the application size limits specified below in Section VII(D) (*Length of Application*).

1. Primary Selection Criteria:

(a) Long-Term Outcomes

In order to measure a project's alignment with this criterion, DOT will assess the public benefits generated by the project, as measured by the extent to which a project produces one or more of the following outcomes.

(i) *State of Good Repair:* In order to determine whether the project will improve the condition of existing transportation facilities or systems, including whether life-cycle costs will be minimized, DOT will assess (i) whether the project is part of, or consistent with, relevant State, local or regional efforts and plans to maintain transportation facilities or systems in a state of good repair, (ii) whether an important aim of the project is to rehabilitate, reconstruct or upgrade surface transportation assets that, if left unimproved, threaten future transportation network efficiency, mobility of goods or people, or economic growth due to their poor condition, (iii) whether the project is appropriately capitalized up front and uses asset management approaches that optimize its long-term cost structure, and (iv) the extent to which a sustainable source of revenue is available for long-term operations and maintenance of the project. The application should include any quantifiable metrics of the facility or system's current condition and performance and, to the extent possible, projected condition and performance, with an explanation of how the project will improve the facility or system's condition, performance and/or long-term cost structure, including calculations of avoided operations and maintenance costs and associated delays.

(ii) *Economic Competitiveness:* In order to determine whether a project promotes the economic competitiveness of the United States, DOT will assess whether the project will measurably contribute over the long term to growth in the productivity of the American economy. For purposes of aligning a project with this outcome, applicants should provide evidence of how improvements in transportation outcomes (such as time savings and operating cost savings) translate into long-term economic productivity benefits. These long-term economic benefits that are provided by the completed project are different from the near-term economic benefits of construction that are captured in the Job Creation & Near-Term Economic Activity criterion. In weighing long-term economic competitiveness benefits, applicants should describe how the project supports increased long-term efficiency and productivity.

Priority consideration will be given to projects that: (i) Improve long-term efficiency, reliability or cost-competitiveness in the movement of workers or goods (including, but not limited to, projects that have a significant effect on reducing the costs of transporting export cargoes), or (ii) make improvements that increase the economic productivity of land, capital or labor at specific locations, particularly Economically Distressed Areas. Applicants may propose other methods of demonstrating a project's contribution to the economic competitiveness of the country and such methods will be reviewed on a case-by-case basis.

Economic competitiveness may be demonstrated by the project's ability to increase the efficiency and effectiveness of the transportation system through integration or better use of all existing transportation infrastructure (which may be evidenced by the project's involvement with or benefits to more than one mode and/or its compatibility with and preferably augmentation of the capacities of connecting modes and facilities), but only to the extent that these enhancements lead to the economic benefits that are identified in the opening paragraph of this section.

[3] While Economically Distressed Areas are typically identified under the Public Works and Economic Development Act at the county level, for the purposes of this program DOT will consider regions, municipalities, smaller areas within larger communities, or other geographic areas to be Economically Distressed Areas if an applicant can demonstrate that any such area otherwise meets the requirements of an Economically Distressed Area as defined in section 301 of the Public Works and Economic Development Act of 1965.

For purposes of demonstrating economic benefits, applicants should estimate National-level or region-wide economic benefits on productivity and production (*e.g.,* reduced shipping costs or travel times for U.S. exports originating both inside and outside of the region), and should net out those benefits most likely to result in transfers of economic activity from one localized area to another. Therefore, in estimating local and regional benefits, applicants should consider net increases in economic productivity and benefits, and should take care not to include economic benefits that are being shifted from one location in the United States to another location. Highly localized benefits will receive the most consideration under circumstances where such benefits are most likely to improve an Economically Distressed Area (as defined herein) or otherwise improve access to more productive employment opportunities for under-employed and disadvantaged populations.

Finally, the TIGER program strives to promote long-term economic growth in a manner that will be sustainable for generations to come. Therefore, for projects designed to enhance economic competitiveness, applicants should also provide evidence that the project will achieve the goals of this outcome in an environmentally sustainable manner. To satisfy this condition, applicants should reference the fourth criterion in this Section II(B) ''Environmental Sustainability'' for more information on what features promote sustainable growth and be sure to address the extent to which sustainability features are incorporated into the proposed project's economic impact.

(iii) *Livability:* Livability investments are projects that not only deliver transportation benefits, but are also designed and planned in such a way that they have a positive impact on qualitative measures of community life. This element of long-term outcomes delivers benefits that are inherently difficult to measure. However, it is implicit to livability that its benefits are shared and therefore magnified by the number of potential users in the affected community. Therefore, descriptions of how projects enhance livability should include a description of the affected community and the scale of the project's impact as measured in person-miles traveled or number of trips affected. In order to determine whether a project improves the quality of the living and working environment of a community, DOT will consider whether the project furthers the six livability principles developed by DOT with HUD and EPA as part of the Partnership for Sustainable Communities, which are listed fully at *http://www.dot.gov/affairs/2009/dot8009.htm.* For this criterion, the Department will give particular consideration to the first principle, which prioritizes the creation of affordable and convenient transportation choices.[4] Specifically, DOT will qualitatively assess whether the project:

(1) Will significantly enhance or reduce the average cost of user mobility through the creation of more convenient transportation options for travelers;

(2) will improve existing transportation choices by enhancing points of modal connectivity, increasing the number of modes accommodated on existing assets, or reducing congestion on existing modal assets;

(3) will improve accessibility and transport services for economically disadvantaged populations, non-drivers, senior citizens, and persons with disabilities, or will make goods, commodities, and services more readily available to these groups; and/or

(4) is the result of a planning process which coordinated transportation and land-use planning decisions and encouraged community participation in the process.

Livability improvements may include projects for new or improved biking and walking infrastructure. Particular attention will be paid to the degree to which such projects contribute significantly to broader traveler mobility through intermodal connections, enhanced job commuting options, or improved connections between residential and commercial areas. Projects that appear designed primarily as isolated recreational facilities and do not enhance traveler mobility as described above will not be funded.

(iv) *Environmental Sustainability:* In order to determine whether a project promotes a more environmentally sustainable transportation system, DOT will assess the project's ability to:

(1) improve energy efficiency, reduce dependence on oil and/or reduce greenhouse gas emissions, (applicants are encouraged to provide quantitative information regarding expected reductions in emissions of CO_2 or fuel consumption as a result of the project, or expected use of clean or alternative sources of energy; projects that demonstrate a projected decrease in the movement of people or goods by less energy-efficient vehicles or systems will be given priority under this factor); and

(2) maintain, protect or enhance the environment, as evidenced by its avoidance of adverse environmental impacts (for example, adverse impacts related to air or water quality, wetlands, and endangered species) and/or by its environmental benefits (for example, improved air quality, wetlands creation or improved habitat connectivity).

Applicants are encouraged to provide quantitative information that validates the existence of substantial transportation-related costs related to energy consumption and adverse environmental effects and evidence of the extent to which the project will reduce or mitigate those costs.

(v) *Safety:* In order to determine whether the project improves safety, DOT will assess the project's ability to reduce the number, rate and consequences of surface transportation-related crashes, injuries, and fatalities among drivers and/or non-drivers in the United States or in the affected metropolitan area or region, and/or the project's contribution to the elimination of highway/rail grade crossings, the protection of pipelines, or the prevention of unintended release of hazardous materials.

Evaluation of Expected Project Costs and Benefits: DOT believes that benefit-cost analysis (''BCA''), including the monetization and discounting of costs and benefits in a common unit of measurement in present-day dollars, is an important discipline. For BCA to yield useful results, full consideration of costs and benefits is necessary. These include traditionally quantified fuel and travel time savings as well as reductions in greenhouse gas emissions, water quality impacts, public health effects, and other costs and benefits that are more indirectly related to vehicle-miles or that are harder to measure. In addition, BCA should attempt to measure the indirect effects of transportation investments on land use and on the portions of household budgets spent on transportation. The systematic process of comparing expected benefits and costs helps decision-makers organize information about, and evaluate trade-offs between, alternative transportation investments. DOT has a responsibility under Executive Order 12893, Principles for Federal Infrastructure Investments, 59 FR 4233, to base infrastructure investments on systematic analysis of expected benefits and costs, including both quantitative and qualitative measures.

[4] In full, this principle reads: ''Provide more transportation choices. Develop safe, reliable and economical transportation choices to decrease household transportation costs, reduce our nations' dependence on foreign oil, improve air quality, reduce greenhouse gas emissions and promote public health.''

Therefore, applicants for TIGER Discretionary Grants are generally required to identify, quantify, and compare expected benefits and costs, subject to the following qualifications:

All applicants will be expected to prepare an analysis of benefits and costs; however, DOT understands that the level of expense that can be expected in these analyses for surveys, travel demand forecasts, market forecasts, statistical analyses, and so on will be less for smaller projects than for larger projects. The level of resources devoted to preparing the benefit-cost analysis should be reasonably related to the size of the overall project and the amount of grant funds requested in the application. Any subjective estimates of benefits and costs should still be quantified, and applicants are expected to provide whatever evidence they have available to lend credence to their subjective estimates. Estimates of benefits should be presented in monetary terms whenever possible; if a monetary estimate is not possible, then at least a quantitative estimate (in physical, non-monetary terms, such as ridership estimates, emissions levels, etc.) should be provided.

The lack of a useful analysis of expected project benefits and costs may be the basis for denying an award of a TIGER Discretionary Grant to an applicant. If it is clear to DOT that the total benefits of a project are not reasonably likely to outweigh the project's costs, DOT will not award a TIGER Discretionary Grant to the project. Consistent with the broader goals of DOT and the FY 2011 Continuing Appropriations Act, DOT can consider some factors that do not readily lend themselves to quantification or monetization, including equitable geographic distribution of grant funds and an appropriate balance in addressing the needs of urban and rural areas and investment in a variety of transportation modes.

Detailed guidance for the preparation of benefit-cost analyses is provided in *Appendix A.* Benefits should be presented, whenever possible, in a tabular form showing benefits and costs in each year for the useful life of the project. Benefits and costs should both be discounted to the year 2011, and present discounted values of both the stream of benefits and the stream of costs should be calculated. If the project has multiple parts, each of which has independent utility, the benefits and costs of each part should be estimated and presented separately. A project component has independent utility if the component itself could qualify as an Eligible Project and would provide benefits that satisfy the selection criteria specified in this notice, as described further in Section III(B) *(Evaluation of Eligibility)* below. The results of the benefit-cost analysis should be summarized in the Project Narrative section of the application itself, but the details may be presented in an attachment to the application.

DOT recognizes that some categories of costs and benefits are more difficult to quantify or monetize than others. In presenting benefit-cost analyses, applicants should include qualitative discussion of the categories of benefits and costs that they were not able to quantify, noting that these benefits and costs are in addition to other benefits and costs that were quantified. However, in the event of an unreasonable absence of data and analysis, or poor applicant effort to put forth a robust quantification of benefits and costs, the application is unlikely to receive further consideration. In general, the lack of a useful analysis comparing benefits and costs for any such project is ground for denying the award of a TIGER Discretionary Grant.

Evaluation of Project Performance: Each applicant selected for TIGER Discretionary Grant funding will be required to work with DOT on the development and implementation of a plan to collect information and report on the project's performance with respect to the relevant long-term outcomes that are expected to be achieved through construction of the project.

(b) Job Creation & Near-Term Economic Activity

In order to measure a project's alignment with this criterion, DOT will assess whether the project promotes the short- or long-term creation or preservation of jobs and whether the project rapidly promotes new or expanded business opportunities during construction of the project or thereafter. Demonstration of a project's rapid economic impact is critical to a project's alignment with this criterion. Applicants are encouraged to provide information to assist DOT in making these assessments, including the total amount of funds that will be expended on construction and construction-related activities by all of the entities participating in the project and, to the extent measurable, the number and type of jobs to be created and/or preserved by the project by calendar quarters during construction and annually thereafter. Applicants should also identify any business enterprises to be created or benefited by the project during its construction and once it becomes operational.[5]

Consistent with the Recovery Act, the Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009 issued by the Office of Management and Budget (''OMB'') on April 3, 2009 (the ''OMB Guidance''), which were applied both to TIGER I and TIGER II, and which DOT will continue to apply to the TIGER Discretionary Grants program as a matter of policy, and consistent with applicable Federal laws, applicants are encouraged to provide information to assist DOT in assessing (1) whether the project will promote the creation of job opportunities for low-income workers through the use of best practice hiring programs and apprenticeship (including pre-apprenticeship) programs; (2) whether the project will provide maximum practicable opportunities for small businesses and disadvantaged business enterprises, including veteran-owned small businesses and service disabled veteran-owned small businesses; (3) whether the project will make effective use of community-based organizations in connecting disadvantaged workers with economic opportunities; (4) whether the project will support entities that have a sound track record on labor practices and compliance with Federal laws ensuring that American workers are safe and treated fairly; and (5) whether the project implements best practices, consistent with our Nation's civil rights and equal opportunity laws, for

[5] The Executive Office of the President, Council of Economic Advisers, issued a memorandum in May 2009 on ''Estimates of Job Creation from the American Recovery and Reinvestment Act of 2009.'' The memorandum is available at: *http://www.whitehouse.gov/administration/eop/cea/Estimate-of-Job-Creation/.* Table 5 of this memorandum provides a simple rule for estimating job-years created by government spending, which is that $92,000 of government spending creates one job-year. Of this, 64% of the job-year estimate represents direct and indirect effects and 36% of the job-year estimate represents induced effects. Applicants can use this estimate as an appropriate indicator of direct, indirect and induced job-years created by TIGER Discretionary Grant spending, but are encouraged to supplement or modify this estimate to the extent they can demonstrate that such modifications are justified. However, since the May 2009 memorandum makes job creation purely a function of the level of expenditure, applicants should also demonstrate how quickly jobs will be created under the proposed project. Projects that generate a given number of jobs more quickly will have a more favorable impact on economic recovery. A quarter-by-quarter projection of the number of direct job-hours expected to be created by the project is useful in assessing the impacts of a project on economic recovery. Furthermore, applicants should be aware that certain types of expenditures are less likely to align well with the Job Creation & Near-Term Economic Activity criterion. These types of expenditures include, among other things, engineering or design work and purchasing existing facilities or right-of-way.

ensuring that all individuals—regardless of race, gender, age, disability, and national origin—benefit from TIGER grant funding.

To the extent possible, applicants should indicate whether the populations most likely to benefit from the creation or preservation of jobs or new or expanded business opportunities are from Economically Distressed Areas. In addition, to the extent possible, applicants should indicate whether the project's procurement plan is likely to create follow-on jobs and near-term economic activity for manufacturers and suppliers that support the construction industry. A key consideration in assessing projects under this criterion will be how quickly jobs are created.

In evaluating a project's alignment with this criterion, DOT will assess whether a project is ready to proceed rapidly upon receipt of a TIGER Discretionary Grant, as evidenced by:

(i) *Project Schedule:* A feasible and sufficiently detailed project schedule demonstrating that the project can begin construction quickly upon receipt of a TIGER Discretionary Grant,[6] and that the grant funds will be spent steadily and expeditiously once construction starts; the schedule should show how many direct, on-project jobs are expected to be created or sustained during each calendar quarter after the project is underway;

(ii) *Environmental Approvals:* Receipt (or reasonably anticipated receipt) of all environmental approvals necessary for the project to proceed to construction on the timeline specified in the project schedule, including satisfaction of all Federal, State and local requirements and completion of the National Environmental Policy Act (''NEPA'') process;

To demonstrate satisfaction of this requirement, applicants should provide assurances with their pre-applications and evidence with their applications that NEPA review is complete or substantially complete and submit relevant draft or final NEPA documentation—preferably by way of a Web site link—for DOT review. DOT is unlikely to select a project for TIGER Discretionary Grant funding if it involves, or potentially involves, significant environmental impacts and has not begun or has not substantially completed required environmental and regulatory reviews. For such projects that have not begun, or have not substantially completed these reviews, it may be difficult to complete environmental and regulatory review as well as all activities needed to be complete prior to construction and meet the obligation deadline of September 30, 2013.

DOT will consider exceptions to the requirement that NEPA be substantially complete upon application in accordance with this paragraph. If an applicant has not substantially completed the NEPA process the applicant should provide information on the project's current status in the NEPA process and an estimate of the latest date that the NEPA process is reasonably expected to be completed. If an applicant has not initiated the NEPA process the applicant must provide a reasonable justification for why the NEPA process has not yet been initiated as of the date of this notice, and an assurance that the necessary environmental reviews can be completed with enough time for any post-NEPA, pre-obligation activities to be completed by June 30, 2013, in order to give DOT comfort that all of the TIGER Discretionary Grant funds are likely to be obligated in advance of the September 30, 2013 statutory deadline, and that any unexpected delays will not put TIGER Discretionary Grant funds at risk of expiring before they can be obligated (see *Appendix C* for additional guidance). An example of a reasonable justification for why an applicant has not initiated NEPA review would be if, prior to the availability of TIGER Discretionary Grant funds, there were no reasonable expectations of receiving Federal funding for the project. A project selected for award that has not completed the NEPA process may not be permitted to use grant funds for construction and related activities until NEPA is complete and all other necessary environmental approvals have been received.

An applicant seeking to justify an exception to this requirement should submit the information listed below with its application:

a. The information required under Sections VII(C)(2)(V) and VII(F)–(G) (*Contents of Applications*) of this notice;

b. Environmental studies or other documents—preferably by way of a Web site link—that describe in detail known potential project impacts, and possible mitigation for those impacts;

c. A description of completed, or planned and anticipated coordination with Federal and State regulatory agencies for permits and approvals;

d. An estimate of the time required for completion of NEPA and all other required Federal, State or local environmental approvals; and

e. An identification of the proposed NEPA class of action (*i.e.,* Categorical Exclusion, Environmental Assessment, or Environmental Impact Statement).

(iii) *Legislative Approvals:* Receipt of all necessary legislative approvals (for example, legislative authority to charge user fees or set toll rates), and evidence of support from State and local elected officials; evidence of support from all relevant State and local officials is not required, however, the evidence should demonstrate that the project is broadly supported;

(iv) *State and Local Planning:* The planning requirements of the operating administration administering the TIGER project will apply.[7] Where required by an operating administration, a project should demonstrate that a project is included in the relevant State, metropolitan, and local planning documents, or will be included. To demonstrate satisfaction of this requirement, applicants should provide evidence that the project is included in the relevant planning documents. One way applicants may do this is by providing a link to a Web site showing the planning documents. If the project is not included in the relevant planning documents at the time the application is submitted, applicants should submit a certification from the appropriate planning agency that actions are underway at the time of the application to include the project in the relevant planning document. The applicant should provide a schedule demonstrating when the project will be added to the relevant planning

[6] Applicants should demonstrate that their project can obligate grant funds no later than June 30, 2013 in order give DOT comfort that the TIGER Discretionary Grant funds are likely to be obligated in advance of the September 30, 2013 statutory deadline, and that any unexpected delays will not put TIGER Discretionary Grant funds at risk of expiring before they are used.

[7] All regionally significant projects requiring an action by the FHWA or the FTA must be in the metropolitan transportation plan, TIP and STIP. Further, in air quality non-attainment and maintenance areas, all regionally significant projects, regardless of the funding source, must be included in the conforming metropolitan transportation plan and TIP. To the extent a project is required to be on a metropolitan transportation plan, TIP and/or STIP it will not receive a TIGER Discretionary Grant until it is included in such plans. Projects not currently included in these plans can be amended in by the State and MPO. Projects that are not required to be in long range transportation plans, STIPs and TIPs will not need to be included in such plans in order to receive a TIGER Discretionary Grant. Freight and passenger rail projects are not required to be on the State Rail Plans called for in the Passenger Rail Investment and Improvement Act of 2008. This is consistent with the exemption for high speed and intercity passenger rail projects under the Recovery Act. However, applicants seeking funding for freight and passenger rail projects are encouraged to demonstrate that they have done sufficient planning to ensure that projects fit into a prioritized list of capital needs and are consistent with long-range goals.

documents; any applicant that is applying for a TIGER Discretionary Grant and does not own all of the property or right-of-way required to complete the project should provide evidence that the property and/or right-of-way owner whose permission is required to complete the project supports the application and will cooperate in carrying out the activities to be supported by the TIGER Discretionary Grant;

(v) *Technical Feasibility:* The technical feasibility of the project, including completion of substantial preliminary engineering work; and

(vi) *Financial Feasibility:* The viability and completeness of the project's financing package (assuming the availability of the requested TIGER Discretionary Grant funds), including evidence of stable and reliable financial commitments and contingency reserves, as appropriate, and evidence of the grant recipient's ability to manage grants.

DOT reserves the right to revoke any award of TIGER Discretionary Grant funds and to award such funds to another project to the extent that such funds are not timely expended and/or construction does not begin in accordance with the project schedule. Because projects have different schedules DOT will consider on a case-by-case basis how much time after selection for award of a TIGER Discretionary Grant each project has before funds must be obligated (consistent with law) and construction started. This deadline will be specified for each TIGER Discretionary Grant in the project-specific grant agreements signed by the grant recipients and will be based on critical path items identified by applicants in response to items (i) through (vi) above, but all deadlines will reflect DOT's preference that pre-conditions be complete and TIGER Discretionary Grants funds obligated on or before June 30, 2013 in order to give DOT comfort that all TIGER Discretionary Grant funds will be obligated before the statutory deadline of September 30, 2013. For example, if an applicant reasonably anticipates that NEPA requirements will be completed and a final decision made within 30 to 60 days of announcement of the award of a TIGER Discretionary Grant, this timeframe will be taken into account in evaluating the application, but also in establishing a deadline for obligation of funds and commencement of construction. By statute, DOT's ability to obligate funds for TIGER Discretionary Grants expires on September 30, 2013 and DOT has no authority to extend the deadline.

2. Secondary Selection Criteria

(a) Innovation

In order to measure a project's alignment with this criterion, DOT will assess the extent to which the project uses innovative technology (including, for example, intelligent transportation systems, dynamic pricing, rail wayside or on-board energy recovery, smart cards, real-time dispatching, active traffic management, radio frequency identification (RFID), or others) to pursue one or more of the long-term outcomes outlined above and/or to significantly enhance the operational performance of the transportation system. DOT will also assess the extent to which the project incorporates innovations that demonstrate the value of new approaches to, among other things, transportation funding and finance, contracting, project delivery, congestion management, safety management, asset management, or long-term operations and maintenance. The applicant should clearly demonstrate that the innovation is designed to pursue one or more of the long-term outcomes outlined above and/or significantly enhance the transportation system.

Innovative, multi-modal projects are often difficult to fund under traditional transportation programs. DOT will consider the extent to which innovative projects might be difficult to fund under other programs and will give priority to projects that align well with the Primary Selection Criteria but are unlikely to receive funding under traditional programs.

(b) Partnership

(i) *Jurisdictional & Stakeholder Collaboration:* In order to measure a project's alignment with this criterion, DOT will assess the project's involvement of non-Federal entities and the use of non-Federal funds, including the scope of involvement and share of total funding. DOT will give priority to projects that receive financial commitments from, or otherwise involve, State and local governments, other public entities, or private or nonprofit entities, including projects that engage parties that are not traditionally involved in transportation projects, such as nonprofit community groups. Pursuant to the OMB Guidance, DOT will give priority to projects that make effective use of community-based organizations in connecting disadvantaged people with economic opportunities. Letters of commitment and other supporting documentation showing existing or confirmed collaboration, partnerships, *etc.,* should be provided (preferably through a Web site link) to demonstrate alignment with this criterion

In compliance with the FY 2011 Continuing Appropriations Act, DOT will give priority to projects for which a TIGER Discretionary Grant will help to complete an overall financing package. An applicant should clearly demonstrate in the application the extent to which the project cannot be readily and efficiently completed without Federal assistance, and the extent to which other sources of Federal assistance are or are not readily available for the project. DOT will assess the amount of private debt and equity to be invested in the project or the amount of co-investment from State, local or other non-profit sources.

DOT will also assess the extent to which the project application demonstrates collaboration among neighboring or regional jurisdictions to achieve National, regional or metropolitan benefits. Multiple States or jurisdictions may submit a joint application and should identify a lead State or jurisdiction as the primary point of contact. Where multiple States or jurisdictions are submitting a joint application, the application should demonstrate how the project costs are apportioned between the States or jurisdictions to assist DOT in making the distributional determinations described below in Section III(C) (*Distribution of Funds*).

(ii) *Disciplinary Integration:* In order to demonstrate the value of partnerships across government agencies that serve various public service missions and to promote collaboration on the objectives outlined in this notice, DOT will give priority to projects that are supported, financially or otherwise, by non-transportation public agencies that are pursuing similar objectives. For example, DOT will give priority to transportation projects that create more livable communities and are supported by relevant public housing agencies or are consistent with State or local efforts or plans to promote economic development, revitalize communities, or protect historic or cultural assets; similarly, DOT will give priority to transportation projects that encourage energy efficiency or improve the environment and are supported by relevant public agencies with energy or environmental missions.

III. Evaluation and Selection Process

A. Evaluation Process

TIGER Discretionary Grant applications will be evaluated in accordance with the below discussed

evaluation process. DOT will establish a pre-application evaluation team to review each pre-application that is received by DOT on or prior to the Pre-Application Deadline. This evaluation team will be organized and led by the Office of the Secretary and will include members from the relevant modal administrations in DOT with the most experience and/or expertise in the relevant project areas (the ''Cognizant Modal Administrations''). These representatives will include technical and professional staff with relevant experience and/or expertise. This evaluation team will be responsible for analyzing whether the pre-application satisfies the following key threshold requirements:

1. The project is an Eligible Project;

2. NEPA is complete or underway, as described above in Section II(B)(2)(b)(ii) (*Environmental Approvals*);

3. The project is included in the relevant State, metropolitan, and local planning documents, or will be included, if applicable;

4. The project expects to be ready to obligate all of the TIGER Discretionary Grant funds no later than June 30, 2013; [8] and

5. Local matching funds to support 20 percent or more of the costs for the project are identified and committed.[9] DOT will consider any non-Federal funds as a local match for purposes of this program, whether such funds are contributed by the public sector (State or local) or the private sector. However, DOT cannot consider funds already expended as a local match. Furthermore, the 20 percent matching requirement for projects that are not in rural areas is an eligibility requirement. All projects, whether in an urban or rural area, can increase their competitiveness by demonstrating significant non-Federal contributions in excess of the required local match, and DOT will give priority, based on the FY 2011 Continuing Appropriations Act, to projects for which Federal funding is required to complete an overall financing package.

To the extent the pre-application evaluation team determines that a pre-application does not satisfy these key threshold requirements, DOT will inform the project sponsor that an application for the project will not be reviewed unless the application submitted on or prior to the Application Deadline can demonstrate that the requirement has been addressed.

DOT will establish application evaluation teams to review each application that is received by DOT prior to the Application Deadline. These evaluation teams will be organized and led by the Office of the Secretary and will include members from each of the Cognizant Modal Administrations. These representatives will include technical and professional staff with relevant experience and/or expertise. The evaluation teams will be responsible for evaluating and rating all of the projects and making funding recommendations to the Secretary. The evaluation process will require team members to evaluate and rate applications individually before convening with other members to discuss ratings. The composition of the evaluation teams will be finalized after the Pre-Application Deadline, based on the number and nature of pre-applications received.

DOT will not assign specific numerical scores to projects based on the selection criteria outlined above in Section II(A) (*Selection Criteria*). Rather, ratings of ''highly recommended,'' ''recommended,'' ''not recommended'', or ''negative'' will be assigned to projects for each of the selection criteria. DOT will award TIGER Discretionary Grants to projects that are well-aligned with one or more of the selection criteria, with projects that are well-aligned with multiple selection criteria being more likely to receive TIGER Discretionary Grants. In addition, DOT will consider whether a project has a negative effect on any of the selection criteria, and any such negative effect may reduce the likelihood that the project will receive a TIGER Discretionary Grant. To the extent the initial evaluation process does not sufficiently differentiate among highly rated projects, DOT will use a similar rating process to re-assess the projects that were highly rated and identify those that should be most highly rated.

DOT will give more weight to the two Primary Selection Criteria (*Long-Term Outcomes* and *Job Creation & Near-Term Economic Activity*), which will be weighted equally, than to the two Secondary Selection Criteria (*Innovation* and *Partnership*) which will also be weighted equally. Projects that are unable to demonstrate a likelihood of significant long-term benefits in any of the five long-term outcomes identified in Section II(A)(1)(a) (*Long-Term Outcomes*) will not proceed in the evaluation process. A project need not be well aligned with each of the long-term outcomes in order to be successful in the long-term outcomes criterion overall. However, projects that are strongly aligned with multiple long-term outcomes will be the most successful in this criterion. Furthermore, a project that has a negative effect on safety or environmental sustainability will need to demonstrate significant merits in other long-term outcomes in order to be selected for funding.

For the Job Creation & Near-Term Economic Activity criterion, projects need not receive a rating of ''highly recommended'' in order to be recommended for funding, although a project that is not ready to proceed quickly, as evidenced by the items requested in Section II(B)(1)(b)(i)–(vi) (*Project Schedule, Environmental Approvals, Legislative Approvals, State and Local Planning, Technical Feasibility,* and *Financial Feasibility*), is less likely to be successful under this criterion.

The following table summarizes the weighting of the selection criteria, as described in the preceding paragraphs:

Primary Selection Criteria	
Long-Term Outcomes	DOT will give more weight to this criterion than to either of the Secondary Selection Criteria. In addition, this criterion has a minimum threshold requirement. Projects that are unable to demonstrate a likelihood of significant long-term benefits in any of the five long-term outcomes identified in this criterion will not proceed in the evaluation process.
Job Creation & Near-Term Economic Activity.	DOT will give more weight to this criterion than to either of the Secondary Selection Criteria. This criterion will be considered after it is determined that a project demonstrates a likelihood of significant long-term benefits in at least one of the five long-term outcomes identified in the long-term outcomes criterion.

[8] See footnote 7, above.

[9] For FHWA and FTA committed funds are defined as: ''Funds that have been dedicated or obligated for transportation purposes'' as described in 23 CFR 450.104.

Secondary Selection Criteria	
Innovation & Partnership	DOT will give less weight to these criteria than to the Primary Selection Criteria. These criteria will be weighted equally.

As noted below in Section III(C) (*Distribution of Funds*), upon completion of this competitive rating process DOT will analyze the preliminary list and determine whether the purely competitive ratings are consistent with the distributional requirements of the FY 2011 Continuing Appropriations Act. If necessary, DOT will adjust the list of recommended projects to satisfy the statutory distributional requirements while remaining as consistent as possible with the competitive ratings.

B. Evaluation of Eligibility

To be selected for a TIGER Discretionary Grant, a project must be an Eligible Project and the applicant must be an Eligible Applicant. DOT may consider one or more components of a large project to be an Eligible Project, but only to the extent that the components have independent utility, meaning the components themselves, not the project of which they are a part, are Eligible Projects and satisfy the selection criteria identified above in Section II(A) (*Selection Criteria*). For these projects, the benefits described in an application must be related to the components of the project for which funding is requested, not the full project of which they are a part. DOT will not fund individual phases of a project if the benefits of completing only these phases would not align well with the selection criteria specified in the Notice because the overall project would still be incomplete.

To the extent that an application requests a substantial amount of grant funds for a larger project or a group of related projects, DOT reserves the right to award funds for a part of the project, not the full project, if a part of the project has independent utility and aligns well with the selection criteria specified in this notice. To the extent applicants expect that DOT may wish to consider funding one or more parts of a project and not the full project that is the subject of the application, then applicants should clearly identify in their applications the separate parts of the project and the benefits that each part of the project provides, and how these benefits align with the selection criteria. Similarly, if a project is not viable unless DOT funds the full project, this should be stated in the application.

C. Distribution of Funds

As noted above in Section I (*Background*), the FY 2011 Continuing Appropriations Act prohibits the award of more than 25 percent of the funds made available under the TIGER program to projects in any one State. The FY 2011 Continuing Appropriations Act also requires that DOT take measures to ensure an equitable geographic distribution of funds, an appropriate balance in addressing the needs of urban and rural areas, and the investment in a variety of transportation modes. DOT will apply an initial unconstrained competitive rating process based on the selection criteria identified above in Section II(A) (*Selection Criteria*) to determine a preliminary list of projects recommended for TIGER Discretionary Grants. DOT will then analyze the preliminary list and determine whether the purely competitive ratings are consistent with the distributional requirements of the FY 2011 Continuing Appropriations Act. If necessary, DOT will adjust the list of recommended projects to satisfy the statutory distributional requirements while remaining as consistent as possible with the competitive ratings.

As noted above in Section II(B)(2)(b)(i) (*Jurisdictional & Stakeholder Collaboration*), applications submitted jointly by multiple Eligible Applicants must include an allocation of project costs to assist DOT in making these determinations. In addition, DOT will use the TIFIA subsidy and administrative cost estimate, not the principal amount of credit assistance, to determine any TIGER TIFIA Payment's effect on these distributional requirements.

D. Transparency of Process

In the interest of transparency, DOT will disclose as much of the information related to its evaluation process as is practical and consistent with law. DOT expects that the TIGER Discretionary Grant program may be reviewed and/or audited by Congress, the U.S. Government Accountability Office, DOT's Inspector General, or others, and has taken, and will continue to take steps to document its decisionmaking process.

IV. Grant Administration

DOT expects that each TIGER Discretionary Grant will be administered by one of the Cognizant Modal Administration, pursuant to a grant agreement between the TIGER Discretionary Grant recipient and the Cognizant Modal Administration. In accordance with the FY 2011 Continuing Appropriations Act, the Secretary has the discretion to delegate such responsibilities to the appropriate operating administration.

Applicable Federal laws, rules and regulations of the Cognizant Modal Administration administering the project will apply to projects that receive TIGER Discretionary Grants.

As noted above in Section II(B)(1)(b) (*Job Creation & Near-Term Economic Activity*), how soon after selection for award a project is expected to obligate grant funds and start construction will be considered on a case-by-case basis and will be specified in the project-specific grant agreements. DOT reserves the right to revoke any award of TIGER Discretionary Grant funds and to award such funds to another project to the extent that such funds are not timely expended and/or construction does not begin in accordance with the project schedule. DOT's ability to obligate funds for TIGER Discretionary Grants expires on September 30, 2013.

V. Projects in Rural Areas

The FY 2011 Continuing Appropriations Act directs that not less than $140 million of the funds provided for TIGER Discretionary Grants are to be used for projects in rural areas. For purposes of this notice, DOT is generally defining ''rural area'' as any area not in an Urbanized Area, as such term is defined by the Census Bureau,[10] and will consider a project to be in a rural area if all or the majority of a project is located in a rural area. To the extent more than a *de minimis* portion of a project is located in an Urbanized Area, applicants should identify the estimated percentage of project costs that will be spent in Urbanized Areas and the estimated percentage that will be spent in rural areas.

For projects located in rural areas the FY 2011 Appropriation Act does not require matching funds (although the

[10] For Census 2000, the Census Bureau defined an Urbanized Area (UA) as an area that consists of densely settled territory that contains 50,000 or more people. Updated lists of UAs are available on the Census Bureau Web site. Urban Clusters (UCs) will be considered rural areas for purposes of the TIGER Discretionary Grant program.

statute does direct DOT to give priority to projects, including projects located in rural areas, for which Federal funding is required to complete an overall financing package that includes non-Federal sources of funds) and the minimum grant size is $1 million. Applicants for TIGER Discretionary Grants of between $1 million and $10 million for projects located in rural areas are encouraged to apply and should address the same criteria as applicants for TIGER Discretionary Grants in excess of $10 million.

VI. TIGER TIFIA Payments

Up to $150 million of the $526.944 million available for TIGER Discretionary Grants may be used for TIGER TIFIA Payments. Based on the average subsidy cost of the existing TIFIA portfolio, $150 million in TIGER TIFIA Payments could support approximately $1.5 billion in Federal credit assistance.

Applicants seeking TIGER TIFIA Payments should apply in accordance with all of the criteria and guidance specified in this notice for TIGER Discretionary Grant applications and will be evaluated concurrently with all other applicants. Any applicant seeking a TIGER TIFIA Payment is also required to submit a TIFIA letter of interest concurrent with the TIGER TIFIA Payment application. If selected for a TIGER TIFIA Payment, the applicant must comply with all of the TIFIA program's standard application and approval requirements including submission of a complete TIFIA application and $50,000 application fee (the TIFIA program guide can be downloaded from *http://tifia.fhwa.dot.gov/*).

Applicants should demonstrate that the TIFIA loan will be ready to close on or before September 30, 2013, in accordance with the guidance specified above in Section II(B)(1)(b) (*Job Creation & Near-Term Economic Activity*). DOT's TIFIA Joint Program Office will assist DOT in determining a project's readiness to proceed rapidly upon receipt of a TIGER TIFIA Payment.

Applicants seeking TIGER TIFIA Payments may also apply for a TIGER Discretionary Grant for the same project and must indicate the type(s) of funding for which they are applying clearly on the face of their applications. An applicant for a TIGER TIFIA Payment must submit an application pursuant to this notice for a TIGER TIFIA Payment even if it does not wish to apply for a TIGER Discretionary Grant.

DOT reserves the right to offer a TIGER TIFIA Payment to an applicant that applied for a TIGER Discretionary Grant even if DOT does not choose to fund the requested TIGER Discretionary Grant request and the applicant did not request a TIGER TIFIA Payment. Therefore, applicants for TIGER Discretionary Grants, particularly applicants that require a substantial amount of funds to complete a financing package, should indicate whether or not they have considered applying for a TIGER TIFIA Payment. To the extent an applicant thinks that TIFIA may be a viable option for the project, applicants should provide a brief description of a project finance plan that includes TIFIA credit assistance and identifies a source of revenue which may be available to support the TIFIA credit assistance.

Unless otherwise expressly noted herein, any and all requirements that apply to TIGER Discretionary Grants pursuant to the FY 2011 Continuing Appropriations Act, this notice, or otherwise, apply to TIGER TIFIA Payments.

Pre-Application and Application Cycle

VII. Pre-Application and Application Cycle

A. Two Stages of Application Cycle

The application cycle for TIGER Discretionary Grants has two stages:

1. *Pre-Application:* In Stage 1, applicants must submit a pre-application form to the DOT. This step qualifies applicants to submit an application in Stage 2. No application submitted during Stage 2 that does not correlate with a properly completed Stage 1 pre-application will be considered.

2. *Application:* In Stage 2, applicants must submit a complete application package through Grants.gov. If an applicant is seeking a TIGER TIFIA payment, applicants must submit electronically a TIFIA letter of interest to the TIFIA office at *TIFIACredit@dot.gov*. TIFIA letters of interest must comply with all of the program's standard requirements (the TIFIA program guide can be downloaded from *http://tifia.fhwa.dot.gov/*).

Pre-applications should be submitted to DOT by the Pre-Application Deadline, which is October 3, 2011, at 5 p.m. EST. Final applications must be submitted through Grants.gov by the Application Deadline, which is October 31, 2011, at 5 p.m. EST. The Grants.gov ''Apply'' function will open on October 5, 2011, allowing applicants to submit applications. While applicants are encouraged to submit pre-applications in advance of the Pre-Application Deadline, pre-applications will not be reviewed until after the Pre-Application Deadline. Similarly, while applicants are encouraged to submit applications in advance of the Application Deadline, applications will not be evaluated, and selections for awards will not be made, until after the Application Deadline.

Pre-applications (stage 1) must be submitted to the DOT. The pre-application form will be available on the DOT Web site at *http://www.dot.gov/TIGER* on August 23, 2011, together with instructions for submitting the pre-application form electronically to DOT.

Applications (Stage 2) must be submitted through Grants.gov. To apply for funding through Grants.gov, applicants must be properly registered. Complete instructions on how to register and submit applications can be found at *http://www.grants.gov.* Please be aware that the registration process usually takes 2–4 weeks and must be completed before an application can be submitted. If interested parties experience difficulties at any point during the registration or application process, please call the Grants.gov Customer Support Hotline at 1–800–518–4726, Monday–Friday from 7 a.m. to 9 p.m. EST. Additional information on applying through Grants.gov is available in *Appendix B,* attached hereto.

To help ensure that applicants submit only those applications that are most likely to align well with the department's selection criteria, each applicant may submit no more than three applications for consideration under the TIGER Discretionary Grant Program. While applications may include requests to fund more than one project, applicants should not bundle together unrelated projects in the same application for purposes of avoiding the three application limit that applies to each applicant. Please note that the three application limit applies only to applications where the applicant is the lead applicant, and there is no limit on applications for which an applicant can be listed as a partnering agency. Also, DOT will not count any application for a multistate project against the three application limit to the extent multiple states are partnering to submit the application.

B. Contents of Pre-Applications

An applicant for a TIGER Discretionary Grant should provide all of the information requested below in its pre-application form. DOT reserves the right to ask any applicant to supplement the data in its pre-application, but expects pre-applications to be complete upon submission. Applicants must complete the pre-application form and send it to

DOT electronically on or prior to the Pre-Application Deadline, in accordance with the instructions specified at *http://www.dot.gov/TIGER*. The pre-application form must include the following information:

i. Name of applicant (if the application is to be submitted by more than one entity, a lead applicant must be identified);

ii. Applicant's DUNS (Data Universal Numbering System) number;

iii. Type of applicant (State government, local government, U.S. territory, Tribal government, transit agency, port authority, metropolitan planning organization, or other unit of government);

iv. State(s) where the project is located;

v. County(s) where the project is located;

vi. City(s) where the project is located;

vii. Information about the geographic location of the project for mapping purposes using one of the following methods:

1. A geographic information system (GIS) file that indicates the location of the project;

2. For locating point specific projects, latitude and longitude in decimal degrees to an accuracy of 5 decimal places (e.g. 0.12345) using the WGS 84 datum (the default datum used by Global Positioning System (GPS) equipment); or

3. For linear projects on existing roads, route number (Interstate, U.S. Route, or State Route) or road name and the latitude and longitude in decimal degrees to an accuracy of 5 decimal places (e.g. 0.12345) of the beginning and ending points of the project;

viii. Project title (descriptive);

ix. Project type: highway, transit, rail, port, multimodal, or bicycle and pedestrian activity (if the project is a multimodal project, the pre-application form will require that applicants provide additional information identifying the affected modes);

x. Whether the project is requesting a TIGER TIFIA Payment;

xi. Project description (describe the project in plain English terms that would be generally understood by the public, using no more than 50 words (e.g. ''the project will replace the existing bridge over the W river on interstate-X between the cities of Y and Z''; please do not describe the project's benefits, background, or alignment with the selection criteria in this description);

xii. Total cost of the project;

xiii. Total amount of TIGER Discretionary Grant funds requested;

xiv. Contact name, phone number, e-mail address, and physical address for applicant;

xv. Congressional districts affected by the project;

xvi. Type of jurisdiction where the project is located (urban or rural, as defined above in Section V (*Projects in Rural Areas*));

xvii. Whether or not the project is in an Economically Distressed Area, as defined in Section II(A) (*Selection Criteria*);

xviii. An assurance that the NEPA and/or environmental review process is complete, substantially complete, or in progress (and the expected outcome of the process), unless an exception is justified pursuant to Section II(B)(1)(b)(ii) (*Environmental Approvals*). Absent an acceptable justification, DOT will not evaluate applications for projects that have not made substantial progress in the environmental review process, including all Federal, State, and local environmental requirements, by the Pre-Application Deadline;

xix. The schedule for completing right-of-way acquisition and final design; approval of plans, specifications, and estimates;

xx. The date that the project is expected to be ready for obligation of grant funds, which should be no later than June 30, 2013 in order to give DOT comfort that the funds will be obligated before they expire on September 30, 2013; and

xxi. An assurance that local matching funds to support 20 percent or more of the *costs of the project are identified and committed (as noted in Section I (Background),* this requirement does not apply to projects located in rural areas (as defined above in Section V *(Projects in Rural Areas)*), and these projects do not need to provide this assurance); however, DOT will give priority to projects that also will be funded with non-Federal sources of funds.

To the extent the pre-application does not provide adequate assurances for items xvii through xxii, DOT will inform the project sponsor that an application for the project will not be reviewed unless the application submitted on or prior to the Application Deadline can demonstrate that each requirement has been addressed.

C. Contents of Applications

An applicant for a TIGER Discretionary Grant must include all of the information requested below in its application. DOT reserves the right to ask any applicant to supplement the data in its application, but expects applications to be complete upon submission. To the extent practical, DOT encourages applicants to provide data and evidence of project merits in a form that is publicly available or verifiable. For TIGER TIFIA Payments, these requirements apply only to the applications required under this notice; the standard TIFIA letter of interest and loan application requirements, including the standard $50,000.00 application fee, are separately described in the Program Guide and Application Form found at *http://tifia.fhwa.dot.gov/*.

1. Standard Form 424, Application for Federal Assistance

Please see *http://www07.grants.gov/assets/SF424Instructions.pdf* for instructions on how to complete the SF 424, which is part of the standard Grants.gov submission. Additional clarifying guidance and FAQs to assist applicants in completing the SF–424 will be available at *http://www.dot.gov/TIGER* by September 16, 2011, when the ''Apply'' function within Grants.gov opens to accept applications under this notice.

2. Project Narrative (Attachment to SF 424)

The project narrative must respond to the application requirements outlined below. DOT recommends that the project narrative be prepared with standard formatting preferences (*e.g.* a single-spaced document, using a standard 12-point font, such as Times New Roman, with 1-inch margins).

A TIGER Discretionary Grant application must include information required for DOT to assess each of the criteria specified in Section II(A) *(Selection Criteria)*, as such criteria are explained in Section II(B) *(Additional Guidance on Selection Criteria).* Applicants must demonstrate the responsiveness of a project to any and all of the selection criteria with the most relevant information that applicants can provide, regardless of whether such information has been specifically requested, or identified, in this notice. Applicants should provide concrete evidence of project milestones, financial capacity and commitment in order to support project readiness. Any such information shall be considered part of the application, not supplemental, for purposes of the application size limits identified below in Part D *(Length of Applications).* Information provided pursuant to this paragraph must be quantified, to the extent possible, to describe the project's benefits to the Nation, a metropolitan area, or a region. Information provided pursuant to this paragraph should include projections for both the build and no-build

scenarios for the project for a point in time at least 20 years beyond the project's completion date or the lifespan of the project, whichever is closest to the present.

All applications should include a detailed description of the proposed project and geospatial data for the project, including a map of the project's location and its connections to existing transportation infrastructure. An application should also include a description of how the project addresses the needs of an urban and/or rural area. An application should clearly describe the transportation challenges that the project aims to address, and how the project will address these challenges. The description should include relevant data such as, for example, passenger or freight volumes, congestion levels, infrastructure condition, or safety experience.

DOT recommends that the project narrative generally adhere to the following basic outline, and include a table of contents, maps and graphics that make the information easier to review:

I. Project Description (including a description of the transportation challenges that the project aims to address, and how the project will address these challenges);

II. Project Parties (information about the grant recipient and other project parties);

III. Grant Funds and Sources/Uses of Project Funds (information about the amount of grant funding requested, availability/commitment of funds sources and uses of all project funds, total project costs, percentage of project costs that would be paid for with TIGER Discretionary Grant funds, and the identity and percentage shares of all parties providing funds for the project (including Federal funds provided under other programs));

IV. Selection Criteria (information about how the project aligns with each of the primary and secondary selection criteria and a description of the results of the benefit-cost analysis):

a. Long-Term Outcomes

i. State of Good Repair

ii. Economic Competitiveness

iii. Livability

iv. Sustainability

v. Safety

b. Job Creation & Near-Term Economic Activity

c. Innovation

d. Partnership

e. Results of Benefit-Cost Analysis

V. Project Readiness and NEPA (information about how ready the project is to move forward quickly, including information about the project schedule, environmental approvals, legislative approvals, state and local planning, technical feasibility, and financial feasibility);

VI. Federal Wage Rate Certification (an application must include a certification, signed by the applicant, stating that it will comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code (Federal wage rate requirements), as required by the FY 2011 Continuing Appropriations Act); and

VII. To the extent relevant, the final page of the application should describe (in one page or less) any material changes that need to be made to the pre-application form, including changes to the assurances provided in items xvii through xxii regarding initiation of NEPA, planning, and required cost sharing.

The purpose of this recommended format is to ensure that applications are provided in a format that clearly addresses the application requirements and makes critical information readily apparent and easy to locate.

D. Length of Applications

The project narrative may not exceed 25 pages in length. Documentation supporting the assertions made in the narrative portion may also be provided, but should be limited to relevant information. If possible, Web site links to supporting documentation (including a more detailed discussion of the benefit-cost analysis) should be provided rather than copies of these materials. At the applicant's discretion, relevant materials provided previously to a Cognizant Modal Administration in support of a different DOT discretionary program (for example, New Starts or TIFIA) may be referenced and described as unchanged. To the extent referenced, this information need not be resubmitted for the TIGER Discretionary Grant application (although provision of a Web site link would facilitate DOT's consideration of the information). DOT recommends use of appropriately descriptive file names (*e.g.,* ''Project Narrative,'' ''Maps,'' ''Memoranda of Understanding and Letters of Support,'' *etc.*) for all attachments. Cover pages and tables of contents do not count towards the 25-page limit for the narrative portion of the application, and the Federal wage rate certification and one-page update of the pre-application form (if necessary) may also be outside of the 25-page narrative. Otherwise, the only substantive portions of the application that should exceed the 25-page limit are any supporting documents (including a more detailed discussion of the benefit-cost analysis) provided to support assertions or conclusions made in the 25-page narrative section.

E. Contact Information

Contact information is requested as part of the SF–424. DOT will use this information to inform parties of DOT's decision regarding selection of projects, as well as to contact parties in the event that DOT needs additional information about an application.

F. National Environmental Policy Act Requirement

An application for a TIGER Discretionary Grant must detail whether the project will significantly impact the natural, social and/or economic environment. If the NEPA process is completed, an applicant must indicate the date of, and provide a Web site link or other reference to, the final Categorical Exclusion, Finding of No Significant Impact or Record of Decision. If the NEPA process is underway but not complete, the application must detail where the project is in the process, indicate the anticipated date of completion and provide a Web site link or other reference to copies of any NEPA documents prepared.

G. Environmentally Related Federal, State and Local Actions

An application for a TIGER Discretionary Grant must indicate whether the proposed project requires actions by other agencies (*e.g.,* permits), indicate the status of such actions and provide a Web site link or other reference to materials submitted to the other agencies, and/or demonstrate compliance with other Federal, State and local regulations as applicable, including, but not limited to, Section 4(f) *Parklands, Recreation Areas, Refuges, & Historic Properties;* Section 106 *Historic and Culturally Significant Properties;* Clean Water Act *Wetlands and Water;* Executive Orders *Wetlands, Floodplains, Environmental Justice;* Clean Air Act *Air Quality (specifically note if the project is located in a nonattainment area);* Endangered Species Act *Threatened and Endangered Biological Resources;* Magnuson-Stevens Fishery Conservation and Management Act *Essential Fish Habitat;* The Bald and Golden Eagle Protection Act; and/or any State and local requirements.

H. Protection of Confidential Business Information

All information submitted as part of or in support of any application shall use publicly available data or data that

can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information that the applicant considers to be a trade secret or confidential commercial or financial information, the applicant should do the following: (1) Note on the front cover that the submission ''Contains Confidential Business Information (CBI);'' (2) mark each affected page ''CBI;'' and (3) highlight or otherwise denote the CBI portions. DOT protects such information from disclosure to the extent allowed under applicable law. In the event DOT receives a Freedom of Information Act (FOIA) request for the information, DOT will follow the procedures described in its FOIA regulations at 49 CFR § 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA.

VIII. Project Benefits

DOT expects to identify and report on the benefits of the projects that it funds with TIGER Discretionary Grants. To this end, DOT will request that recipients of TIGER Discretionary Grants cooperate in Departmental efforts to collect and report on information related to the benefits produced by the projects that receive TIGER Discretionary Grants.

The benefits that DOT reports on may include the following: (1) Improved condition of existing transportation facilities and systems; (2) improved economic competitiveness in the form of reduced travel time, less traffic congestion, improved trip reliability, fewer vehicle miles traveled, or lower vehicle operating costs; (3) long-term growth in employment, production or other high-value economic activity; (4) improved livability of communities across the United States through expansion of transportation options, efficiency, and reliability; (5) improved energy efficiency, reduced dependence on oil and reduced greenhouse gas emissions; (6) reduced adverse impacts of transportation on the natural environment; (7) reduced number, rate and consequences of surface transportation-related crashes, injuries and fatalities; (8) greater use of technology and innovative approaches to transportation funding and project delivery; (9) greater collaboration with state and local governments, other public entities, private entities, nonprofit entities, or other non-traditional partners; (10) greater integration of transportation decision making with decision making by other public agencies with similar public service objectives; or (11) any other benefits claimed in the project's benefit-cost analysis.

Because of the limited nature of this program, these benefits are likely to be reported on a project-by-project basis and trends across projects that were selected for TIGER Discretionary Grants may not be readily available. In addition, because many of these benefits are long-term outcomes, it may be years before the value of the investments can be quantified and fully reported. DOT is considering the most appropriate way to collect and report information about these potential project benefits.

IX. Questions and Clarifications

For further information concerning this notice please contact the TIGER Discretionary Grant program manager via e-mail at *TIGERGrants@dot.gov*, or call Robert Mariner at 202–366–8914. A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993. DOT will regularly post answers to these questions and other important clarifications on DOT's Web site at *http://www.dot.gov/TIGER*.

Appendix A: Additional Information on Benefit-Cost Analysis

As previously discussed in the Notice, the lack of a useful analysis of expected project benefits and costs may be a basis for denying an award of a TIGER Discretionary Grant to any applicant. Additionally, if it is clear that the total benefits of a project are not reasonably likely to outweigh the project's costs, the Department will not award a TIGER Discretionary Grant to the project. Consequently, it is incumbent upon the applicant to prepare a thorough benefit-cost analysis that demonstrates clearly the derivation of both the costs and the benefits of the project. However, DOT understands that the level of expense that can be expected in these analyses for surveys, travel demand forecasts, market forecasts, statistical analyses, and so on will be less for smaller projects than for larger projects. The level of resources devoted to preparing the benefit-cost analysis should be reasonably related to the size of the overall project and the amount of grant funds requested in the application. Any subjective estimates of benefits and costs should still be quantified, and applicants are expected to provide whatever evidence they have available to lend credence to their subjective estimates. Estimates of benefits should be presented in monetary terms whenever possible; if a monetary estimate is not possible, then at least a quantitative estimate (in physical, non-monetary terms, such as ridership estimates, emissions levels, *etc.*) should be provided.

This appendix provides general information and guidance on conducting an analysis. In addition to this guidance, applicants should also refer to OMB Circulars A–4 and A–94 in preparing their analysis (*http://www.whitehouse.gov/omb/circulars/*). Circular A–4 also cites textbooks on cost-benefit analysis (*e.g.,* Mishan and Quah [11]) if an applicant wants to review additional background material. The Department will rate all analyses as indicated below.

TABLE 1—RATINGS OF BENEFIT-COST ANALYSES

Rating	Description
Very useful	The economic analysis (i) is comprehensive (quantifying and monetizing the full range of costs and benefits, including the likely timing of such costs and benefits, for which such measures are reasonably available), (ii) attempts to describe the indirect effects of transportation investments on land use (when applicable), (iii) helps the Department organize information about, and evaluate trade-offs between, alternative transportation investments, (iv) provides a high degree of confidence as to the extent to which the benefits of the project will exceed the project's costs on a net present value basis, and (v) provides sensitivity analysis to show how changes in key assumptions affect the outcome of the analysis.
Useful	The economic analysis (i) identifies, quantifies, monetizes, and compares the project's expected benefits and costs, but has minor gaps in coverage of benefits and costs or the precise timing of benefits and costs, or fails in some cases to quantify or monetize benefits and costs for which such measures are reasonably available, and (ii) provides a sufficient degree of confidence that the benefits of the project will exceed the project's costs on a net present value basis.
Marginally Useful	The economic analysis (i) identifies, quantifies, monetizes, and compares the project's expected benefits and costs, but has significant gaps in coverage, quantification, monetization, or timing of benefits and costs, or significant errors in its measurement of benefits or costs, and (ii) the Department is uncertain whether the benefits of the project will exceed the project's costs on a net present value basis.

[11] E.J. Mishan and Euston Quah, *Cost-Benefit Analysis,* 5th edition (New York: Routledge, 2007).

TABLE 1—RATINGS OF BENEFIT-COST ANALYSES—Continued

Rating	Description
Not Useful	The economic analysis (i) does not adequately identify, quantify, monetize, and compare the project's expected benefits and costs or timing of benefits and costs, (ii) provides little basis for concluding that the benefits of the project will exceed the project's costs on a net present value basis, and (iii) demonstrates an unreasonable absence of data and analysis or poor applicant effort to put forth a robust quantification of net benefits.

A benefit-cost analysis attempts to measure the dollar value of the benefits and the costs to all the members of society (in this context, ''society'' means all residents of the United States) on a net present value basis. The benefits represent a dollar measure of the extent to which people are made better off by the project—that is, the benefits represent the amount that all the people in the society would jointly be willing to pay to carry out the project, and feel as if they had generated enough benefits to justify the project's costs, after accounting for the relative timing of those benefits and costs. In some cases, benefits may be difficult to measure in dollar terms. Applicants must at least describe the nature of each of the major types of benefits described in this guidance. To the extent possible, applicants must also quantify each of those types of benefits (e.g., in terms of the number of users making use of a transportation facility). Finally, applicants must attempt to measure those benefits in dollar terms (*i.e.,* ''monetize'' them). These benefits must then be compared with a dollar measure of the costs of the project. Both benefits and costs must be estimated for each year after work on the project is begun and for a period of time at least 20 years in the future (or the project's useful life, whichever is shorter), and these streams of annual benefits and costs must be discounted to the present using an appropriate discount rate, so that a present value of the stream of benefits and a present value of the stream of costs is calculated.

As a starting point for any analysis, applicants should provide a Project Summary describing the project and what it changes. The Project Summary should provide:

- A description of the current infrastructure baseline (*e.g.,* an existing two-lane road);
- A description of what the proposed project is and how it would change the current infrastructure baseline (*e.g.,* extension of a trolley line);
- A general justification for the project and how it affects the long-term outcomes relative to the current baseline;
- A description of who would be the users of the project or what groups of people would benefit from it; and
- A description of what types of economic effects the project is expected to have.

If an application contains multiple separate projects (but that are linked together in a common objective), each of which has independent utility, the applicant should provide a separate summary (and analysis) for each project.

The summary should also identify the types of societal benefits the project might generate. The applicant should list the types of benefits here and then clearly demonstrate in the analysis how it estimated benefits for each category. The summary should also include the full cost of a project, including Federal, State, local, and private funding, as well as expected operations and maintenance costs, and not simply the requested grant amount or the local amount.

Each application must include in its analysis estimates of the project's expected benefits with respect to each of the five long-term outcomes specified in Section II(A) *(Selection Criteria).* We recognize that it may in some cases be unclear in which of these categories of outcomes a benefit should be listed. In these cases, it is less important in which category a benefit is listed than to make sure that the benefit is listed and measured (but only once). Applicants must demonstrate that the proposed project has independent utility as defined in this Notice. It cannot be a component of a larger project such that, if the larger project were not built, this project would have little or no transportation value (or, if it is part of a larger project, the application must demonstrate that funding for the larger project is committed). If the applicant provides a benefit-cost analysis for a larger project, then it must estimate what portion of the benefits and costs of the larger project apply to the smaller project for which funding is being sought. The following sections describe baselines, affected population, discounting, forecasting, costs, and benefit categories in more detail. The Department expects a thorough discussion of these items in the body of the analysis.

Benefit-Cost Analysis vs. *Economic Impact Analysis*

First, it is important to recognize that a benefit-cost analysis is not an economic impact analysis. Applicants are required to provide a benefit-cost analysis in support of their proposed projects. An economic impact analysis is not a substitute for a benefit-cost analysis.

A benefit-cost analysis attempts to measure the dollar value of the benefits and the costs to all the members of society (in this context, ''society'' means all residents of the United States). The benefits represent a dollar measure of the extent to which people are made better off by the project—that is, the benefits represent the amount that all the people in the society would jointly be willing to pay to carry out the project, and feel as if they had generated enough benefits to justify the project's costs.

An economic impact analysis, on the other hand, typically focuses on local and regional impacts rather than national impacts. Some of the impacts that are counted in an economic impact analysis, such as diversion of economic activity from one region of the country to another, represent gains to one part of the country but losses to another part, so they are not gains from the standpoint of the nation as a whole.

Moreover, economic impact analyses estimate ''impacts'' rather than ''benefits,'' and the ''impacts'' are normally quite different from the ''benefits.'' For example, the total payroll of workers on a project is usually considered one of the ''impacts'' in an economic impact analysis. The total payroll is not a measure of the ''benefits'' of the project, however, for two reasons. First, a payroll is a cost to whoever pays the employees, at the same time that it is a benefit to the employees, so it is not a net benefit. Second, even for the employees, the employees have to work for their wages, so the amount they are paid is not a net benefit to them—it is a benefit only to the extent that they value their wages more than the cost to them of having to be at work every day.

Economic impact analyses also often treat real estate investments induced by a project as one of the economic ''impacts.'' The full value of such an investment is not a ''benefit,'' however, because the benefit of those investments to the community in which they are made is balanced by the cost of the investment to the investor. Because these investments are a cost as well as a benefit, they are not a net benefit for purposes of a benefit-cost analysis.

There is often an element of benefit in these ''impacts.'' A worker who gets a higher-paying job as a result of a transportation investment project benefits if he or she works just as hard as he or she did at his or her previous job but is paid more. Such projects produce benefits by increasing the productivity of labor. A transportation investment project that increases the value and productivity of land and thus induces real estate investment can also provide a benefit, but the benefit must be measured net of the cost of making the real estate investment. Measuring these labor and land productivity effects requires a careful analysis of the local labor market and how that market is changed by the transportation investment. Similarly, measuring the effects of transportation projects on the productivity of land requires a careful netting out of increases in land values that are compensated by costs of real estate investment and increases in land values that in effect capitalize other types of benefits that have already been counted, such as time savings.

In summary, applicants must be careful to measure only the net benefits of a project, and should avoid using software packages that are designed primarily to produce economic impact analyses. An application containing only an economic impact analysis does not meet the program's requirements and may be denied an award for that reason.

Baselines and Alternatives

Applicants should measure costs and benefits of a proposed project against a baseline (also called a ''base case'' or a ''no build'' case). The baseline should be an assessment of the way the world would look if the project did not receive the requested TIGER Discretionary Grant funding. Usually, it is reasonable to forecast that that baseline world resembles the present state. However, it is important to factor in any projected changes *(e.g.,* baseline economic growth, increased traffic volumes, or completion of already planned and funded projects) that would occur even if the proposed project were not funded. In some cases the proposed project already has a financing plan that would allow it to be built, but that involves a slower construction schedule than would occur if it received TIGER Discretionary Grant funding. Or it may be likely that, in the absence of TIGER Discretionary Grant funding, the project would be built later using ordinary funding sources. In these cases, the TIGER Discretionary Grant funding may accelerate completion of the project, but it does not allow a project to be built that would never otherwise have been built. The benefits and costs in this case should thus be limited to the marginal benefits (and marginal costs) of having the project completed in a shorter period of time and including the cost of expending resources on the project sooner than otherwise planned.

Many projects have multiple parts or multiple phases, only one or two of which would actually receive funding from a TIGER Discretionary Grant. It is important in these cases that both the costs and the benefits pertain to the same portion of the project. If the part or phase of the project funded by a TIGER Discretionary Grant has independent utility, then the analysis should compare the costs and the benefits of just that part or phase. If the part or phase of the project funded by a TIGER Discretionary Grant does not have independent utility, then the applicant must first demonstrate that funding is committed for the entire project (or for an entire portion of the project, including the TIGER Discretionary Grant-funded portion, that has independent utility). In this case, the applicant should compare the benefits and costs of the entire project (or the entire portion of the project that has independent utility). The applicant must make clear exactly what portions of the project form the basis of the estimates of benefits and costs. It is incorrect to claim benefits for the entire project but only count as costs the costs of the portion of the project funded by the TIGER Discretionary Grant. Thus, it would be incorrect to attribute all the benefits from a new port facility to a TIGER Discretionary Grant when the costs that are counted only cover a portion of the project funded by the TIGER Discretionary Grant, for example, paving a loading area. In some cases, the applicant may choose to allocate the benefits of the project proportionately to the costs of the project that would be funded by the TIGER Discretionary Grant, but this should generally be done only if (1) the TIGER Discretionary Grant funds are commingled with non-TIGER Discretionary Grant funds for a single, non-divisible structure that has independent utility) and (2) the project has sufficient funding in place to be completed as a whole unit. If a project is being funded by multiple Federal, State, and local sources, it would be inappropriate to attribute the full benefit of the project to only one source of funding (such as the local share or the TIGER Discretionary Grant itself).

All costs and benefits of the project should be evaluated, including benefits and costs that fall outside of the jurisdiction sponsoring the project. It is also important that the applicant assume the continuation of reasonable and sound management practices in establishing a baseline. Assuming a baseline scenario in which the owner of the facility does no maintenance on the facility and ignores traffic problems and maintenance is not realistic and will lead to the overstatement of project benefits.

In addition to the baseline, the applicant should present and consider reasonable alternatives in the analysis. Smaller-scale and more focused projects should be evaluated for comparison purposes. For example, if an applicant is requesting funds to replace a pier, it should also analyze the alternative of rehabilitating the current pier. Similarly, if an applicant seeks funds to establish a relatively large streetcar project, it should also evaluate a more focused project serving only the more densely populated corridors or an area.

Affected Population

Applicants should clearly identify the population that the project will affect and measure the number of passengers (for a passenger project) and the amount of freight (for a freight project) affected by the project. If possible, passenger and freight traffic should be measured in passenger-miles and freight ton-miles (and possibly value of freight). If, as is often the case (*e.g.,* projected growth in highway traffic), the forecasted traffic volume is not the same for all years, then the applicant needs to break out the forecasted traffic annually. In some cases, the characteristics of the passenger population or of the freight cargo may be important (*e.g.,* whether the passengers are members of a disadvantaged group, or are spread across a multi-state region, or whether the cargo being shipped is predominantly export traffic). Measures of freight traffic might include growing levels of port calls. In some cases, the relevant population is the volume of traffic that is diverted from one mode to another. Applicants must clearly identify which population will be affected by any particular benefit. For example, the affected population that will enjoy travel time savings may be different from the affected population benefiting from reduced shipping costs. Further, the applicant should be realistic as to how the project affects these populations. For example, improving rail access to a wholesale distribution center near an urban area may take some trucks off the road that had been carrying freight from a truck/rail intermodal yard to the wholesale distribution center. However, it is unrealistic to claim benefits from reduced truck traffic all the way from the shipping origin point hundreds or thousands of miles away to the truck/rail intermodal yard, if that traffic would be likely to be moving much of this distance by rail already.

Discounting

Applicants should discount future benefits and costs to present values using a real discount rate (*i.e.,* a discount rate that reflects the opportunity cost of money net of the rate of inflation) of 7 percent, following guidance provided by OMB in Circulars A–4 and A–94 (*http://www.whitehouse.gov/omb/circulars_default/*). Applicants may also provide an alternative analysis using a real discount rate of 3 percent. The latter approach should be used when the alternative use of funds currently dedicated to the project would be other public expenditures, rather than private investment.

As a first step, applicants should present the year-by-year stream of benefits and costs from the project. Applicants should clearly identify when they expect costs and benefits to occur. The beginning point for the year-by-year stream of benefits should be the first year in which the project will start generating costs or benefits. The ending point should be far enough in the future to encompass most or all of the significant costs and benefits resulting from the project (at least 20 years in the future) but not to exceed the usable life of the asset without capital improvement.[12] In presenting these year-by-year streams, applicants should measure them in constant (or ''real'') dollars prior to discounting. Applicants should not add in the effects of inflation to the estimates of future benefits and costs prior to discounting. Once an applicant has generated the stream of costs and benefits in constant dollars, it should then discount these estimates to arrive at a present value of costs and benefits using the real discount rate specified above. The standard formula for the discount factor in any given year is $1/(1 + r)^t$, where ''r'' is the discount rate and ''t'' measures the number of years in the future that the costs or benefits will occur. Infrequently, benefits or costs will be the same in constant dollars for all years. In these limited cases, an applicant can calculate the formula for the present value of

[12] In some cases the application may use a fixed term of years to analyze benefits and costs (*e.g.,* 20 years), even though the applicant knows that the project will last longer than that and continue to have benefits and costs in later years. In these cases, the project will retain a ''residual value'' at the end of the analysis period. For instance, a new bridge may be expected to have a 100-year life but the analysis period for the benefit-cost analysis might cover only 40 years. In such cases, a residual value can be claimed as a benefit (or cost offset) for the asset at the end of the analysis period. One method to estimate the residual value is to calculate the percentage of the project that will not be depreciated or used up at the end of the analysis period and to multiply this percentage by the original cost of the project. Different components of the project may have different depreciation rates—land typically does not depreciate. The estimated residual value is assigned to the end of the analysis period and should then be discounted to its present value as would any other cost or benefit occurring at that time. Note that a residual value of a project can only be claimed if the project will be kept in operation beyond the end of the analysis period. If the project will be retired at that time, a salvage value (reflecting revenues raised from the decommissioning of the project) can be claimed.

an ordinary annuity instead of showing a year-by-year calculation.[13]

Forecasting

Benefit-cost analyses of transportation projects almost always depend on forecasts of projected levels of usage (road traffic, port calls, *etc.*). When an applicant is using such forecasts to generate benefit estimates, it must assess the reliability of these forecasts. If the applicant is using outside forecasts, it must provide a citation and an appropriate page number for the forecasts. An applicant should carefully review any outside forecasts for reliability before using them in its analyses. In cases where an applicant is using its own estimates, it should clearly demonstrate in the analysis the methodology it used to forecast affected population (*e.g.,* how it generated traffic volumes for cars and trucks on a highway section). The number of individuals who enjoy the benefits of a project will partly determine the net benefits of the project. Consequently, accurate forecasts are essential to conducting a quality benefit-cost analysis. Applicants should also take great care to match forecasts of affected population to the corresponding year. For example, using projected traffic levels for 2030 to generate benefits for all the earlier years is incorrect. For more information on forecasting, applicants can refer to the forecasting section of FHWA's Economic Analysis Primer (*http://www.fhwa.dot.gov/infrastructure/asstmgmt/primer06.cfm*). While produced for analysis of highway projects, the primer is a good source of information on issues related to all transportation forecasting.

Costs

As noted above, the estimate of costs must pertain to the same project as the estimate of benefits. If the TIGER Discretionary Grant is to pay for only part of the project, but the project is indivisible (*i.e.,* no one part of the project would have independent utility), then the benefits of the whole project should be compared to the costs of the whole project, including costs paid for by State, local, and private partners other than the Federal government. Applicants may not claim that the TIGER Discretionary Grant ''leverages'' the financial contributions of other parties, and therefore that all the benefits of the project are attributable to the TIGER Discretionary Grant, even though the TIGER Discretionary Grant only pays for part of the project.

The analysis of costs should be equally as rigorous as the analysis of benefits. The lack of a useful analysis of expected project costs may be a basis for denying the award of a TIGER Discretionary Grant to an applicant. In general, applicants should use a life-cycle cost analysis approach in estimating the costs of the project. The Department expects applicants to include operating, maintenance, and other life-cycle costs of the project, along with capital costs. In addition to construction costs, other direct costs may include design and land acquisition. If the time period considered in the analysis is long enough to require the rehabilitation of the facility during the period of analysis, then the costs of that rehabilitation should be included. External costs, such as noise, increased congestion, and environmental pollutants resulting from the use of the facility or related changes in usage on other facilities in the same network, should be considered as costs in the analysis. Additionally, applicants should include, to the extent possible, costs to users during construction, such as delays and increased vehicle operating costs associated with work zones or detours. The applicant should correctly discount annual costs to arrive at a present value of the project's cost.

Types of Benefits-Livability

There are several potential benefits that a project could generate that affect livability. The most important aspect of livability is accessibility to non-single-occupancy vehicle modes of transportation, such as transit, bicycle paths, and sidewalks. Measuring the benefits of increased accessibility should start with a quantitative measure of the increase in accessibility—how many people will have access to these alternative modes who did not have access before? The analysis should go on to estimate how many people are actually likely to use these newly available transportation modes and how much of their existing single-occupancy vehicle travel are those people likely to divert to these alternative modes. Finally, the analysis should attempt to estimate the monetary value that people place on access to these newly available transportation modes. In some cases, monetary values may be estimated based on existing market transactions—e.g., bicycle rentals. In others, differentials in the market values of land or rents between residences and businesses that are already easily accessible (*e.g.* < 0.5 miles) to these modes and those that are in the same areas but not easily accessible (*e.g.* > 0.5 miles) can be used as a proxy estimate of the value of this access. In other cases, no objective market values are available, and the applicant should make the best subjective estimate it can of the average value that this accessibility has to those who now have access to these alternative modes.

One useful source of guidance on measuring benefits of bicycle facilities is Transportation Research Board, National Cooperative Highway Research Program Report 552, *Guidelines for Analysis of Investments in Bicycle Facilities* (Washington: TRB, 2006) (available at *http://onlinepubs.trb.sorg/onlinepubs/nchrp/nchrp_rpt_552.pdf.*)

Transit and bicycle paths may provide greater accessibility to alternative transportation modes, but they will not actually enhance livability unless people actually want to use them, and the desire to use them will depend in part on where these modes go and on the amenities provided with them. An important part of accessibility is making sure not only that people's residences are accessible to these modes, but that the modes connect to workplaces, schools, shopping, and other desired destinations. Assessments of enhanced accessibility should describe where these alternative modes go as well as where they start.

Land use changes are also an important aspect of livability. When people live closer to their workplaces, their schools, and shopping, they will be more likely to use these alternative transportation modes. Transportation changes that encourage more mixed-use land development (where residences are intermixed with workplaces and shopping) will shorten the length of travel and encourage more use of non-highway modes. The analysis should evaluate the extent to which the proposed transportation project will encourage these changes in land use and be coordinated with zoning changes and other public and private investments.

Changes in land use that result in shorter travel distances can result in long-term travel time savings, and the quantitative extent of these time savings can be estimated. Values of time can then be used to estimate the monetary value of these time savings. The applicant should propose a subjective estimate of the monetary value of land use changes. Land use changes can also reduce the total cost of transportation for the affected population, so applicants should attempt to measure the effects of the project and associated land use changes on average household transportation expenditures.

In using differentials in property values or rents to measure the value of changes in accessibility, applicants must identify other factors that might have caused property values and/or rents to change and isolate the portion of the change that is attributable to the change in accessibility. Applicants must also be careful to avoid double-counting. If the applicant has already counted reductions in travel time as a benefit, the value of those reductions in travel time may get capitalized in changes in property values or rents, and the applicant must be careful not to count those benefits again as part of the change in property values.

Finally, an important aspect of livability is the availability of transportation to disadvantaged communities, such as low-income people, non-drivers, people with disabilities, and senior citizens. Applicants should assess the extent to which their projects will improve transportation opportunities and quality of life for members of these disadvantaged communities. While there may not be well-defined methodologies for assigning monetary values to these enhancements to accessibility, applicants should attempt to measure the size of the disadvantaged community affected and make subjective judgments of the monetary values that should be assigned to these improvements.

Types of Benefits-Economic Competitiveness

Economic competitiveness benefits might include reduced operating costs due to infrastructure improvements. In some cases,

[13] See *http://www.brighthub.com/money/personal-finance/articles/17948.aspx.* For example, 10.594 is the discount factor that would be multiplied by an annual benefit to get the present value of a constant benefit stream over 20 years at a discount rate of seven percent. If the constant annual benefit is $500,000, then the present value of the benefits is $5.297 million. In these limited cases, the applicant must show the calculation of the discount factor of the ordinary annuity formula.

a project produces economic competitiveness benefits because the existing users of the facility will have lower operating costs after the improvement is completed. In other cases, the economic competitiveness benefits result from modal diversion—users shifting from a higher-cost transportation mode to a lower-cost transportation mode when the quality of service on the lower-cost mode becomes more competitive. In this case, the applicant should demonstrate clearly what the basis is of any estimated modal diversion. In estimating operating cost savings, it is important to avoid double-counting. For example, applicants must not count both the reductions in fuel costs and the overall reductions in operating costs, because fuel costs are part of operating costs. For freight projects, economic competitiveness benefits may be particularly significant if the project reduces the costs of transporting freight that will be exported.

One particular form of reduced operating costs is travel time savings. Road improvements or other projects whose purpose is to relieve congestion frequently generate travel time savings for travelers and shippers that contribute to economic competitiveness and quality of life to non-business travelers. Where this is the case, applicants should clearly demonstrate how the travel time savings are calculated and should account for induced travel demand to the extent practical or applicable. If travel time savings vary over time, the applicant must clearly show savings by year. Once the applicant generates its estimate of hours saved, it should apply the Department's guidance on the value of time to those estimates (*http://ostpxweb.dot.gov/policy/reports.htm*) to monetize them for both business and non-business travelers. The value of time saving is often among the largest benefit components of transportation capacity enhancement projects.[14] Transportation projects may also enhance economic competitiveness by improving the reliability of travel times (*i.e.,* reducing the variation in travel times), in addition to the benefits from a reduction in the average travel time.

Freight-related projects that improve roads, rails, and ports frequently generate savings to shippers (*e.g.,* fuel savings and other operating cost savings) that they may pass on in whole or in part to shippers by way of lower freight rates. Shippers may, in turn, pass on, in whole or in part, these savings to consumers. If applicants are projecting these savings as benefits, they need to carefully demonstrate how the proposed project would generate such benefits. However, applicants must be careful to count the value of the fuel and other operating cost savings (however allocated among carriers, shippers, and consumers) only once in the benefit-cost analysis; it cannot be re-counted in full each time it transfers from one group to the other as this would entail double-counting of the same benefit.

Applicants should also guard against analysis that double-counts other kinds of benefits. Analysis should distinguish between real benefits and transfer payments. Benefits reflect real resource usage and overall benefits to society, while transfers represent payments by one group to another and do not represent a net increase in societal benefits. Employment or output multipliers that purport to measure secondary effects should not be included as societal benefits because these secondary effects are generally the same (per dollar spent) regardless of what kind of project is funded.

As noted earlier in this Appendix (see *Benefit-Cost Analysis* vs. *Economic Impact Analysis*), applicants must be extremely cautious about including job creation and economic development impacts as societal benefits in the benefit-cost analysis. In the case of job creation, for example, every job represents both a cost to the employer (paying a wage) and a benefit to the employee (receiving a wage), so it is a transfer payment, rather than a net benefit. However, if a project increases the productivity of labor, then the applicant can count the increased productivity as a benefit. For example, if the project allows workers working at low-productivity jobs to switch to high-productivity jobs, then the increase in their productivity can be counted as a benefit. But the applicant needs to demonstrate rigorously how such productivity benefits are estimated and the exact time period over which the productivity benefits occur. Simply asserting these gains is inadequate.

With respect to economic development, estimates of capital investments or property tax revenues are not legitimate benefits in a benefit-cost analysis. A property tax is a benefit to the tax assessor, but it is a cost to the taxpayer. An applicant can potentially claim an increase in the value of land as a benefit if the transportation project increases the value and productivity of the land. However, the applicant needs to count the increase in the value of the land carefully to avoid double counting and transfer payments. For example, if the property value goes up by the exact same value as the developer's investment, then this is not a benefit. Property value increases over and above the developer's investment may potentially be a benefit from the project. However, if this property value increase is due to improved travel times that the applicant has already included as a benefit then there is no additional benefit here. The analysis should also consider to what extent an increase in land values induced by the project in one area causes a reduction in land values in some other area. Only the net increase in land value can be counted as a benefit. Applicants must carefully net out any embedded time savings in the property value increase before claiming any benefits. Simply asserting that there is a property tax increase net of time savings is inadequate. The Department expects any applicant claiming these types of benefits to provide a rigorous justification of the benefit that shows how it is derived from the project (rather than from some other non-project investment) and that shows how increases in property values attributable to other benefits (such as travel time savings) have been deducted. Applicants should note that any claimed societal benefit from a property value increase is only a one-time stock benefit. Applicants can not treat it as a stream of benefits accruing annually.

Types of Benefits-Safety

Road projects can also improve the safety of transportation. A well-designed project can reduce fatalities and injuries as well as reduce other crash costs, such as hazardous materials releases. The applicant should clearly demonstrate how the project will improve safety. For example, to claim a reduction in fatalities, an applicant must clearly demonstrate how the existence of the project would have prevented the types of fatalities that commonly occur in that area. Applicants should use crash causation factors or similar analyses of causes of crashes to show the extent to which the type of improvements proposed would actually reduce the likelihood of the kinds of crashes that actually had occurred. Alternatively, when only a few cases are involved, the applicant should provide a description of the incidents and demonstrate the linkage between the proposed project and crash reduction. In some cases, safety benefits may occur because of modal diversion from a less safe mode to a more safe mode. When this type of benefit is claimed, the applicant should provide a clear analysis of why the forecasted modal diversion will take place. Once the applicant has established a reasonable count of the incidents that are likely to be prevented by the project, it should apply the Department's guidance on value of life and injuries (*http://ostpxweb.dot.gov/policy/reports.htm*) to monetize them. Sources of information on the social benefits of reducing crash costs are discussed in Chapter VIII of the Final Regulatory Impact Analysis of the National Highway Traffic Safety Administration's rulemaking on Corporate Average Fuel Economy for MY 2011 Passenger Cars and Light Trucks (*http://www.nhtsa.gov/DOT/NHTSA/Rulemaking/Rules/Associated%20Files/CAFE_Final_Rule_MY2011_FRIA.pdf*). The economic values of various benefits are summarized in Table VIII–5 on page VIII–60.

Types of Benefits-State of Good Repair

Many infrastructure projects that improve the state of good repair of transportation infrastructure can reduce long-term maintenance and repair costs. These benefits are in addition to the benefits of reductions in travel time, shipping costs, and crashes which the applicant should account for separately. Applicants should include these maintenance and repair savings as benefits. Improving state of good repair may also reduce operating costs and congestion by reducing the amount of time that the

[14] There is a growing body of academic research that attempts to value the improved reliability of travel time in addition to travel time savings. Improved travel time reliability resulting from a project can influence business inventory costs and travel time allotted for unexpected delays. Applicants attempting to quantify the value of improved reliability of a transportation project as part of a benefit-cost analysis should carefully define how they have measured and valued it for the project, with particular attention to its relationship to estimates and valuations of travel time saving.

infrastructure is out of service due to maintenance and repairs, or may prevent a facility (such as a bridge) from being removed from service entirely (*i.e.* low-volume facilities that would cost too much to replace). In the latter case, the analysis should include a reasonable assessment of the cost that closing the facility would have on system users who would be required to take longer and more circuitous routes, as well as the probability (and likely time in the future) when the bridge would need to be closed even if sound maintenance practices had been pursued. Improving state of good repair may also reduce user costs if, for example, the roughness of a road reduces travel speeds or increases damage to vehicles. Improving state of good repair can also have safety benefits. The application should also consider differences in maintenance and repair costs when comparing different project alternatives. For example, an applicant can compare the maintenance costs that would be required after rehabilitating an existing pier with those that would be required after building a new one. As part of the data that go into estimating the benefits of improving the state of good repair, applicants should provide accepted metrics for assessing an asset's current condition. For example, applicants can use Present Serviceability Ratings (PSR) to discuss pavement condition and bridge sufficiency ratings to discuss the condition of a bridge. As discussed in the section on costs, the Department expects applicants to consider the life-cycle costs of the project when making these comparisons.

Types of Benefits-Sustainability

Transportation can generate environmental costs in the form of emissions of ''criteria pollutants'' (*e.g.,* SO_X, NO_X, and particulates) and from the emission of greenhouse gases, such as carbon dioxide (CO_2). Increased traffic congestion results in increased levels of these emissions. Transportation projects that reduce congestion can reduce these emissions and produce societal benefits given reduced idling and otherwise constant vehicle miles travelled. Also, transportation projects that encourage transportation users to shift from more-polluting modes to less-polluting modes can similarly reduce emissions. Applicants claiming these types of benefits must clearly demonstrate and quantify how the project will reduce emissions. Once an applicant has adequately quantified levels of emission reductions, it should estimate the dollar value of these benefits. Sources of information on the social benefits of reducing criteria pollutant emissions are discussed in Chapter VIII of the Final Regulatory Impact Analysis of the National Highway Traffic Safety Administration's rulemaking on Corporate Average Fuel Economy for MY 2011 Passenger Cars and Light Trucks (*http://www.nhtsa.gov/DOT/NHTSA/Rulemaking/Rules/Associated%20Files/CAFE_Final_Rule_MY2011_FRIA.pdf*).

The Interagency Working Group on Social Cost of Carbon has recently issued its guidance on ''Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866'' (*http://www1.eere.energy.gov/buildings/appliance_standards/commercial/pdfs/sem_finalrule_appendix15a.pdf*). This guidance lays out a range of values to use for monetizing the social cost of carbon at various years in the future and at various discount rates. Applicants should clearly indicate how and to what degree calculations of benefits in their analyses are based on these assumed values of CO_2 emissions reduction.

Transparency and Reproducibility of Calculations

Applicants should make every effort to make the results of their analyses as transparent and reproducible as possible. Applicants should clearly set out basic assumptions, methods, and data underlying the analysis and discuss any uncertainties associated with the estimates.

A Department reviewer reading the analysis should be able to understand the basic elements of the analysis and the way in which the applicant derived the estimates. If the application refers the reader to more detailed documentation to explain how the calculations were done, that documentation must go beyond merely providing spreadsheets. It must include a thorough verbal description of how the calculation was done, including references to tabs and cells in the spreadsheet. This verbal description should include specific sources for all the numbers in the spreadsheet that are not calculated from the spreadsheet itself.

If an applicant uses a ''pre-packaged'' economic model to calculate net benefits, the applicant should provide annual benefits and costs by benefit and cost type for the entire analysis period. In any case, applicants must provide a detailed explanation of the assumptions used to run the model (*e.g.,* peak traffic hours and traffic volume during peak hours, mix of traffic by cars, buses, and trucks, *etc.*). The applicant must provide enough information so that a Department reviewer can follow the general logic of the estimates (and, in the case of spreadsheet models, reproduce them).

Ideally, the applicant should be able to summarize the results of all pertinent data and cost and benefit calculations in a single spreadsheet tab (or table in *Word*). A Department reviewer should be able to understand the calculations in spreadsheet models both from directions in the spreadsheet and any accompanying text. The following provides a simplified example for expository purposes of discounted costs and benefits from a road project providing travel time savings only to local travelers over the course of five years following a one-year period of construction.

Calendar Year	Project Year	Affected Drivers	Travel Time Saved (hours) [1]	Total Value of Time Saved ($2008)[2]	Initial Costs ($2008)	Operations & Maintenance Costs ($2008)[3]	Undiscounted Net Benefits	Discounted at 7%
2011	1				$38,500,000	$6,000,000	-$44,500,000	-$41,588,785
2012	2	80,000	1,040,000	$14,248,000		$700,000	$13,548,000	$11,833,348
2013	3	95,000	1,235,000	$16,919,500		$700,000	$16,219,500	$13,239,943
2014	4	100,000	1,300,000	$17,810,000		$700,000	$17,110,000	$13,053,137
2015	5	102,000	1,326,000	$18,166,200		$700,000	$17,466,200	$12,453,159
2016	6	109,000	1,417,000	$19,412,900		$700,000	$18,712,900	$12,469,195
NPV								$21,459,998
1. Number of drivers times three minutes a day (3/60 hours) over 260 workdays								
2. Hours at $13.70 per hour ($2008)								
3. Includes costs from delays to users during construction								

Most applicant analyses will be more complicated than this example and will likely include several benefit categories. However, the summary cost and benefit data should be as transparent and as easy to follow and replicate as the example above.

Appendix B: Additional Information on Applying Through Grants.gov

Applications (Stage 2) for TIGER Discretionary Grants must be submitted through Grants.gov. To apply for funding through Grants.gov, applicants must be properly registered. Complete instructions on how to register and apply can be found at *http://www.grants.gov.* If interested parties experience difficulties at any point during registration or application process, please call the Grants.gov Customer Support Hotline at 1–800–518–4726, Monday-Friday from 7 a.m. to 9 p.m. EST.

Registering with Grants.gov is a one-time process; however, processing delays may occur and it can take up to several weeks for first-time registrants to receive confirmation and a user password. It is highly recommended that applicants start the registration process as early as possible to prevent delays that may preclude submitting an application by the deadlines specified. Applications will not be accepted after the relevant due date; delayed registration is not an acceptable reason for extensions. In order to apply for TIGER Discretionary Grant funding under this announcement and to apply for funding through Grants.gov, all applicants are required to complete the following:

1. *Acquire a DUNS Number.* A DUNS number is required for Grants.gov registration. The Office of Management and Budget requires that all businesses and nonprofit applicants for Federal funds include a DUNS (Data Universal Numbering System) number in their applications for a new award or renewal of an existing award. A DUNS number is a unique nine-digit sequence recognized as the universal standard for identifying and keeping track of entities receiving Federal funds. The identifier is used for tracking purposes and to validate address and point of contact information for Federal assistance applicants, recipients, and sub-recipients. The DUNS number will be used throughout the grant life cycle. Obtaining a DUNS number is a free, one-time activity. Obtain a DUNS number by calling 1–866–705–5711 or by applying online at *http://www.dunandbradstreet.com.*

2. *Acquire or Renew Registration with the Central Contractor Registration (CCR) Database.* All applicants for Federal financial assistance maintain current registrations in the Central Contractor Registration (CCR) database. An applicant must be registered in the CCR to successfully register in Grants.gov. The CCR database is the repository for standard information about Federal financial assistance applicants, recipients, and sub-recipients. Organizations that have previously submitted applications via Grants.gov are already registered with CCR, as it is a requirement for Grants.gov registration. Please note, however, that applicants must update or renew their CCR registration at least once per year to maintain an active status, so it is critical to check registration status well in advance of relevant application deadlines. Information about CCR registration procedures can be accessed at *http://www.ccr.gov.*

3. *Acquire an Authorized Organization Representative (AOR) and a Grants.gov Username and Password.* Complete your AOR profile on Grants.gov and create your username and password. You will need to use your organization's DUNS Number to complete this step. For more information about the registration process, go to *http://www.grants.gov/applicants/get_registered.jsp.*

4. *Acquire Authorization for your AOR from the E-Business Point of Contact (E-Biz POC).* The E-Biz POC at your organization must log in to Grants.gov to confirm you as an AOR. Please note that there can be more than one AOR for your organization.

5. *Search for the Funding Opportunity on Grants.gov.* Please use the following identifying information when searching for the TIGER funding opportunity on Grants.gov. The Catalog of Federal Domestic Assistance (CFDA) number for this solicitation is 20.933, titled Surface Transportation Infrastructure Discretionary Grants for Capital Investments II.

6. *Submit an Application Addressing All of the Requirements Outlined in this Funding Availability Announcement.* Within 24–48 hours after submitting your electronic application, you should receive an e-mail validation message from Grants.gov. The validation message will tell you whether the application has been received and validated or rejected, with an explanation. You are urged to submit your application at least 72 hours prior to the due date of the application to allow time to receive the validation message and to correct any problems that may have caused a rejection notification.

Note: When uploading attachments please use generally accepted formats such as .pdf, .doc, and .xls. While you may imbed picture files such as .jpg, .gif, .bmp, in your files, please do not save and submit the attachment in these formats. Additionally, the following formats will not be accepted: .com, .bat, .exe, .vbs, .cfg, .dat, .db, .dbf, .dll, .ini, .log, .ora, .sys, and .zip.

Experiencing Unforeseen Grants.gov Technical Issues

If you experience unforeseen Grants.gov technical issues beyond your control that prevent you from submitting your application by the deadline of October 31, 2011 at 5 p.m. EDT, you must contact Robert Mariner at 202–366–8914 or *Robert.Mariner@dot.gov* within 24 hours after the deadline and request approval to submit your application. At that time, DOT staff will require you to e-mail the complete grant application, your DUNS number, and provide a Grants.gov Help Desk tracking number(s). After DOT staff review all of the information submitted as well as contacts the Grants.gov Help Desk to validate the technical issues you reported, DOT staff will contact you to either approve or deny your request to submit a late application. If the technical issues you reported cannot be validated, your application will be rejected as untimely.

To ensure a fair competition for limited discretionary funds, the following conditions are not valid reasons to permit late submissions: (1) Failure to complete the registration process before the deadline date; (2) failure to follow Grants.gov instructions on how to register and apply as posted on its Web site; (3) failure to follow all of the instructions in the funding availability notice; and (4) technical issues experienced with the applicant's computer or information technology (IT) environment.

Appendix C: Additional Information on Project Readiness Guidelines

As applicants develop their applications, there are some guidelines on project readiness that they should consider. The TIGER Discretionary Grant funds are available for a limited period of time (DOT's ability to obligate the funds expires after September 30, 2013), and DOT may be limited as to when they may obligate the TIGER Discretionary Grant funds to a project if it is not far enough along in the project development process. The application package should provide concrete evidence of project milestones, financial capacity and commitment in order to support project readiness. Each operating administration with the responsibility for obligating the TIGER Discretionary Grant funds has its own regulations, policies, and procedures that they may apply for projects that have been selected for TIGER Discretionary Grant funds. In some cases, an operating administration may obligate a portion of the overall amount of funds that an applicant has been selected to receive so that such an applicant may use that portion of the TIGER Discretionary Grant funds for eligible pre-construction activities, delaying the balance of the obligation of funds until all pre-construction requirements have been completed.

The guidelines below provide additional details about some of these pre-obligation steps (including, but not limited to, planning requirements, environmental approvals, right-of-way acquisitions, and design completion) and suggest milestones each project should aim to achieve in order be able to obligate the full amount of awarded TIGER Discretionary Grant funds in advance of the obligation deadline of September 30, 2013.

Applicants should demonstrate that they can reasonably expect to complete all of these pre-obligation requirements no later than June 30, 2013, in order to give DOT comfort that the TIGER Discretionary Grant funds are likely to be obligated in advance of the September 30, 2013 statutory deadline, and that any unexpected delays will not put TIGER Discretionary Grant funds at risk of expiring before they can be obligated. Applicants that are unfamiliar with, or have questions about, the requirements that a proposed project or projects may need to complete in order for the operating administration to obligate TIGER Discretionary Grant funds may contact *TIGERGrants@dot.gov* with questions. The below information is not an exhaustive list of the requirements that a project may need to comply with in order for TIGER Discretionary Grant funds to be obligated by the operating administration that is administering the TIGER Discretionary Grant.

State and Local Planning: Project activities that are focused on refining scope and completing Federal environmental reviews are eligible capital expenses under the TIGER Discretionary Grants Program and are an essential part of project development. A project that receives TIGER Discretionary Grant funds may be required to be approved by the Metropolitan Planning Organization or State in the Long Range Plans and Transportation Improvement Program (TIP)/Statewide Transportation Improvement Program (STIP). Applicants should take steps to ensure that the project will be included in the relevant plan, if the project is required to be included in such planning documents before an operating administration may obligate funds to the project.

If the project is not included in the relevant planning documents at the time the

application is submitted, applicants should submit a certification from the appropriate planning agency that actions are underway at the time of application to include the project in the relevant planning document on or before June 30, 2013. If the obligation of TIGER Discretionary Grant funds for construction or other activities is contingent on the project being included in the relevant planning documents, applicants should demonstrate they can reasonably expect to have the project included in such planning documents by March 30, 2013, in order to give DOT comfort that the TIGER Discretionary Grant funds are likely to be obligated in advance of the September 30, 2013 statutory deadline, and that any unexpected delays will not put TIGER Discretionary Grant funds at risk of expiring before they can be obligated. The applicant should provide a schedule demonstrating when the project will be added to the relevant planning documents.

Environmental Approvals: Projects should have received all environmental approvals, including satisfaction of all Federal, State and local requirements and completion of the National Environmental Policy Act (''NEPA'') process at the time the application is submitted or should demonstrate that receipt of all approvals can occur by June 30, 2013, in order to give DOT comfort that the TIGER Discretionary Grant funds are likely to be obligated in advance of the September 30, 2013 statutory deadline, and that any unexpected delays will not put TIGER Discretionary Grant funds at risk of expiring before they can be obligated.

If the obligation of TIGER Discretionary Grant funds for construction or other activities is contingent on completion of other approvals that can only take place after the environmental approvals process, the applicant should demonstrate that they can reasonably expect to have all environmental approvals by March 30, 2013, or other date sufficiently in advance of June 30, 2013, in order to give DOT comfort that the TIGER Discretionary Grant funds are likely to be obligated in advance of the September 30, 2013 statutory deadline, and that any unexpected delays will not put TIGER Discretionary Grant funds at risk of expiring before they can be obligated, because it may be difficult to complete environmental and regulatory review as well as any other necessary pre-obligation activities prior to the statutory obligation deadline of September 30, 2013.

To demonstrate that this suggested milestone is achievable, applicants should provide information about the anticipated class of action, the budget for completing NEPA, including hiring a consultant if necessary, and a schedule that demonstrates when NEPA will be complete. The schedule should show how the suggested milestones described in this section will be complied with, and include any anticipated coordination with Federal and State regulatory agencies for permits and approvals. The budget should demonstrate how costs to complete NEPA factor into the overall cost to complete construction of the project. The budget and schedule for completing NEPA should be reasonable and be comparable to a budget and schedule of a typical project of the same type. The applicant should provide evidence of support based on input during the NEPA process from State and local elected officials as well as the public. Additionally, the applicant should provide environmental studies or other documents (preferably by way of a Web site link) that describe in detail known potential project impacts and possible mitigation for these impacts. The applicant should supply sufficient documentation for DOT to adequately review the project's NEPA status.

Right-of-Way and Design: If the obligation of TIGER Discretionary Grant funds by an operating administration may be contingent on completion of right-of-way acquisition and final design approval, applicants should demonstrate that they reasonably expect to have right-of-way and design completed, and completion of any other needed pre-final-obligation approvals by June 30, 2013, in order to give DOT comfort that the TIGER Discretionary Grant funds are likely to be obligated in advance of the September 30, 2013 statutory deadline, and that any unexpected delays will not put TIGER Discretionary Grant funds at risk of expiring before they can be obligated. If the obligation of TIGER Discretionary Grant funds for construction or other activities is contingent on the project completing right-of-way acquisition and design, and additional approvals contingent on completion of right of way acquisition and design, applicants should demonstrate they can reasonably expect to have right-of-way acquisition and design completed by June 1, 2013, in order to give DOT comfort that the TIGER Discretionary Grant funds are likely to be obligated in advance of the September 30, 2013 statutory deadline, and that any unexpected delays will not put TIGER Discretionary Grant funds at risk of expiring before they can be obligated Applicants should submit a reasonable schedule of when right-of-way (if applicable), design, and any other required approvals are expected to be obtained. Applicants may expect that DOT may obligate TIGER funds for right-of-way and design completion only after planning and environmental approvals are obtained.

Completion of Obligation: Applicants should plan to have all TIGER Discretionary Grant funds obligated by June 30, 2013, in order to give DOT comfort that the TIGER Discretionary Grant funds are likely to be obligated in advance of the September 30, 2013 statutory deadline, and that any unexpected delays will not put TIGER Discretionary Grant funds at risk of expiring before they can be obligated. In some instances, DOT may not obligate for construction until all planning and environmental approvals are obtained and right-of-way and final design are complete. If a project is selected for a TIGER Discretionary Grant and the TIGER Discretionary Grant funding will be used to complete all of these activities, DOT may obligate the funding in phases, in accordance with the laws, regulations, and policies of the operating administration that is administering the grant.

Issued On: June 27, 2011.

Ray LaHood,

Secretary.

[FR Doc. 2011–16514 Filed 6–30–11; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Tenth Meeting: RTCA Special Committee 223: Airport Surface Wireless Communications

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of RTCA Special Committee 223: Airport Surface Wireless Communications meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 223: Airport Surface Wireless Communications.

DATES: The meeting will be held August 9–10, 2011 from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., and Appendix 2), notice is hereby given for a RTCA Special Committee 223: Airport Surface Wireless Communications meeting.

Agenda

Tuesday, August 9, 2011

Tuesday Morning Plenary

- Welcome, Introductions, Administrative Remarks by Special Committee Leadership
  - Designated Federal Officer (DFO): Mr. Brent Phillips
  - Co-Chair: Mr. Aloke Roy, Honeywell International
  - Co-Chair: Mr. Ward Hall, ITT Corporation
- Agenda Overview
- Review/Approve Prior Plenary Meeting Summary—RTCA Paper No. 051–11/SC223–020, and Action Item Status
- General Presentation of Interest
  - Antenna isolation and aircraft installation issues—Honeywell
  - WiMAX Forum coordination status—WiMAX Forum

- Tuesday Afternoon—MOPS WG Breakout Session
- Review Status of WMF Agreement
- Discussion of Chapters 5,6,8—EUROCAE
  - Chap 5—Service Specific CS
  - Draft Chap 8—Physical Layer
- Discussion of Security Sub-layer—Honeywell MOPS Outline

Wednesday, August 10, 2011

- Wednesday Morning—MOPS WG Breakout Session
- Review Draft of Environmental (DO–160G)—Rockwell Collins
- Review Draft PICS—Rockwell Collins
- Review Draft CSRL Appendix—Rockwell Collins
- Status on ARINC XXX—Continental Airlines

Wednesday Afternoon—MOPS WG Breakout Session

- Establish Agenda, Date and Place for the next plenary meetings of number 11 and 12
- Review of Meeting summary report
- Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 23, 2011.

Kathy Hitt,

RTCA Advisory Committee.

[FR Doc. 2011–16591 Filed 6–30–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Tenth Meeting: RTCA Special Committee 221: Aircraft Secondary Barriers and Alternative Flight Deck Security Procedures

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 221 meeting: Aircraft Secondary Barriers and Alternative Flight Deck Security Procedures.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 221: Aircraft Secondary Barriers and Alternative Flight Deck Security Procedures.

DATES: The meeting will be held July 19–20, from 9:00 a.m. to 5:00 p.m., unless stated otherwise in agenda.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street, Suite 910, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1150 18th Street, Suite 910, NW., Washington, DC 20036, telephone (202) 833–9339, fax (202) 833–9434, Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., and Appendix 2), notice is hereby given for a Special Committee 221, Aircraft Secondary Barriers and Alternative Flight Deck Security Procedures.

Agenda

Tuesday July 19 (12 p.m.–5 p.m.)

Wednesday July 20 (9 a.m.–5 p.m.)

- Welcome/Introductions and Administrative Remarks
- Approval of Summary of the Ninth Meeting held May 2011, RTCA Paper No. 125–11//SC221–026
- Leadership Comments
- Review of WG Actions—Status Reports
- Incorporate Comments and Finalize New Document—*Aircraft Secondary Barriers and Alternative Flight Deck Security Procedures*
- SC–221 Follow on Tasks—Discussion
- Other Business
- Adjourn at 5 p.m.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 23, 2011.

Kathy Hitt,

RTCA Advisory Committee.

[FR Doc. 2011–16607 Filed 6–30–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Third Meeting: RTCA Special Committee 225: Rechargeable Lithium Batteries and Battery Systems—Small and Medium Sizes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 225 meeting: Rechargeable Lithium Batteries and Battery Systems—Small and Medium Sizes.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 225: Rechargeable Lithium Batteries and Battery Systems—Small and Medium Sizes.

DATES: The meeting will be held July 26–27, 2011, from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street, Suite 910, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1150 18th Street, Suite 910, NW., Washington, DC 20036, telephone (202) 833–9339 or e-mail *jiverson@rtca.org,* fax (202) 833–9434, Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., and Appendix 2), notice is hereby given for a Special Committee 225, Rechargeable Lithium Batteries and Battery Systems—Small and Medium Sizes.

Agenda

Tuesday July 26, 2011

- Welcome/Introductions/ Administrative Remarks.
- Review of the meeting agenda.
- Review and approval of summary from the second plenary meeting RTCA paper no. 120–11/SC225–004.
- Review of action items.
- Review progress on requirement development from working group.
- Review new action items.
- Review agenda for Wednesday, July 27.

Wednesday July 27, 2011

- Review meeting agenda, other actions.
- Working Groups meeting.
- Working Group report, review progress and actions.
- Other Business.
- Establish Agenda for Fourth Plenary Meeting.
- Administrative Items (Meeting Schedule).

- Review all action items.
- Adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 23, 2011.

Kathy Hitt,

RTCA Advisory Committee.

[FR Doc. 2011–16592 Filed 6–30–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Eleventh Meeting: RTCA Special Committee 220: Automatic Flight Guidance and Control

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 220 Meeting: Automatic Flight Guidance and Control.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 220: Automatic Flight Guidance and Control

DATES: The meeting will be held August 9–11, 2011, from 9 a.m. to 5 p.m., unless stated otherwise.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street, Suite 910, NW., Washington, DC, 20036. For hotel information please view the following Web site: *http://www.rtca.org/directions/directions.asp#hotels.*

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1150 18th Street, Suite 910, NW., Washington, DC, 20036, telephone (202) 833–9339, fax (202) 833–9434, Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., and Appendix 2), notice is hereby given for a Special Committee 220, Automatic Flight Guidance and Control.

Agenda

Tuesday August 9–Thursday, August 11, 2011

Tuesday, August 9

- Introductions and Administrative Items.
- Review of Meeting Agenda.
- Review and approval of summary from the first plenary meeting RTCA paper no. 011–11/SC220–024.
- Presentation of progress of Working Group–2.
- Presentation of progress of Working Group–3.
- Break-out sessions for Working Groups 2 and 3.

Wednesday, August 10, 2011

- Continue Break-out sessions for Working Groups 2 and 3.
- Continue development of Installation Guidance White Papers.

Thursday, August 11, 2011

- Return to general plenary meeting.
- Review of Working Group 2 Status—Progress, Issues and Plans.
- Review of Working Group 3 Status—Progress, Issues and Plans.
- Review of Action Items.
- Administrative items (meeting schedule, location, and next meeting agenda).
- Any other business.
- Adjourn at 2 p.m.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 23, 2011.

Kathy Hitt,

RTCA Advisory Committee.

[FR Doc. 2011–16596 Filed 6–30–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Seventh Meeting: RTCA Special Committee 224: Airport Security Access Control Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 224 meeting: Airport Security Access Control Systems (Update to DO–230B).

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 224: Airport Security Access Control Systems.

DATES: The meeting will be held July 15, 2011, from 10 a.m. to 1 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street, NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1150 18th Street, NW., Suite 910, Washington, DC 20036, telephone (202) 833–9339, fax (202) 833–9434, Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., and Appendix 2), notice is hereby given for a Special Committee 224, Airport Security Access Control Systems (Update to DO–230B):

Agenda

July 15, 2011

- Welcome/Introductions/Administrative Remarks.
- Review/Approve Summary—Sixth Meeting.
- Discussion—Develop Plans for Next Document Versions.
- Any Other Business.
- Adjourn.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 23, 2011.

Kathy Hitt,

RTCA Advisory Committee.

[FR Doc. 2011–16595 Filed 6–30–11; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Prompt Payment Interest Rate; Contract Disputes Act

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning July 1, 2011, and ending on December 31, 2011, the prompt payment interest rate is 2½ per centum per annum.

DATES: Effective July 1, 2011, to December 31, 2011.

ADDRESSES: Comments or inquiries may be mailed to Dorothy Dicks, Reporting Team Leader, Federal Borrowings Branch, Division of Accounting Operations, Office of Public Debt Accounting, Bureau of the Public Debt,

Parkersburg, West Virginia 26106–1328. A copy of this Notice is available at *http://www.treasurydirect.gov.*

FOR FURTHER INFORMATION CONTACT: Kimberly Poling, Acting Manager, Federal Borrowings Branch, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia 26106–1328, (304) 480–5103; Dorothy Dicks, Reporting Team Leader, Federal Borrowings Branch, Division of Accounting Operations, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia 26106–1328, (304) 480–5115; Paul Wolfteich, Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt, (202) 504–3705; or Brenda L. Hoffman, Attorney-Advisor, Office of the Chief Counsel, Bureau of the Public Debt, (202) 504–3706.

SUPPLEMENTARY INFORMATION: An agency that has acquired property or service from a business concern and has failed to pay for the complete delivery of property or service by the required payment date shall pay the business concern an interest penalty. 31 U.S.C. 3902(a). The Contract Disputes Act of 1978, Sec. 12, Public Law 95–563, 92 Stat. 2389, and the Prompt Payment Act of 1982, 31 U.S.C. 3902(a), provide for the calculation of interest due on claims at the rate established by the Secretary of the Treasury.

The Secretary of the Treasury has the authority to specify the rate by which the interest shall be computed for interest payments under section 12 of the Contract Disputes Act of 1978 and under the Prompt Payment Act. Under the Prompt Payment Act, if an interest penalty is owed to a business concern, the penalty shall be paid regardless of whether the business concern requested payment of interest. 31 U.S.C. 3902(c)(1). Agencies must pay the interest penalty calculated with the interest rate, which is in effect at the time the agency accrues the obligation to pay a late payment interest penalty. 31 U.S.C. 3902(a). ''The interest penalty shall be paid for the period beginning on the day after the required payment date and ending on the date on which payment is made.'' 31 U.S.C. 3902(b).

Therefore, notice is given that the Secretary of the Treasury has determined that the rate of interest applicable for the period beginning July 1, 2011, and ending on December 31, 2011, is 2½ per centum per annum.

Richard L. Gregg,

Fiscal Assistant Secretary.

[FR Doc. 2011–16656 Filed 6–28–11; 4:15 pm]

BILLING CODE 4810–39–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0716]

Proposed Information Collection (Complaint of Employment Discrimination) Activity: Comment Request

AGENCY: Human Resources and Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Human Resources and Administration (HRA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to process a complaint of employment discrimination.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 30, 2011.

ADDRESSES: Submit written comments on the collection of information through the Federal Docket Management System (FDMS) at *http://www.Regulations.gov* or to Lillette Turner-Nelson, Human Resources and Administration, Office of Resolution Management (08B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *lillette.turner-nelson@va.gov.* Please refer to ''OMB Control No. 2900–0716'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Lillette Turner at (202) 501–2680 or Fax (202) 501–2811.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, HRA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of HRA's functions, including whether the information will have practical utility; (2) the accuracy of HRA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Complaint of Employment Discrimination, VA Form 4939.

OMB Control Number: 2900–0716.

Type of Review: Extension of a currently approved collection.

Abstract: VA employees, former employees and applicants for employment who believe they were denied employment based on race, color, religion, gender, national origin age, physical or mental disability and/or reprisal for prior Equal Employment Opportunity activity complete VA Form 4939 to file a complaint of discrimination.

Affected Public: Individuals or households.

Estimated Annual Burden: 200 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 419.

Dated: June 27, 2011.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–16502 Filed 6–30–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0119]

Proposed Information Collection (Report of Treatment in Hospital); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to this notice.

This notice solicits comments on information needed to determine a claimant's eligibility for disability insurance benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 30, 2011.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *http://www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *nancy.kessinger@va.gov*. Please refer to ''OMB Control No. 2900–0119'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or Fax (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Report of Treatment in Hospital, VA FL 29–551.

OMB Control Number: 2900–0119.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form Letter 29–551 is used to collect information from hospitals where a claimant was treated. VA uses the data to determine the insured's eligibility for disability insurance benefits.

Affected Public: Individuals or households.

Estimated Annual Burden: 4,055 hours.

Estimated Average Burden per Respondent: 12 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 20,277.

Dated: June 27, 2011.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–16503 Filed 6–30–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0618]

Proposed Information Collection (Application by Insured Terminally Ill Person for Accelerated Benefit; Comment Request

AGENCY: Department of Veterans Affairs, Veterans Benefits Administration.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments on the information needed to process accelerated death benefit payment.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 30, 2011.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *http://www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *nancy.kessinger@va.gov*. Please refer to ''OMB Control No. 2900–0618'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or Fax (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application by Insured Terminally Ill Person for Accelerated Benefit (38 CFR 9.14(e).

OMB Control Number: 2900–0618.

Type of Review: Extension of a currently approved collection.

Abstract: An insured person who is terminally ill may request a portion of the face value of his or her Servicemembers' Group Life Insurance (SGLI) or Veterans' Group Life Insurance (VGLI) prior to death. If the insured would like to receive a portion of the SGLI or VGLI he or she must submit a Servicemembers' and Veterans' Group Life Insurance Accelerated Benefits Option application. The application must include a medical prognosis by a physician stating the life expectancy of the insured person and a statement by the insured on the amount of accelerated benefit he or she choose to receive. The application is obtainable by writing to the Office of Servicemembers' Group Life Insurance ABO Claim Processing, 290 West Mt. Pleasant Avenue, Livingston, NJ 07039, or calling 1–800–419–1473 or downloading the application via the Internet at *http://www.insurance.va.gov.*

Affected Public: Individuals or households.

Estimated Annual Burden: 40 hours.

Estimated Average Burden per Respondent: 12 minutes.

Frequency of Response: On Occasion.

Estimated Number of Respondents: 200.

Dated: June 27, 2011.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. 2011–16504 Filed 6–30–11; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0635]

Proposed Information Collection (Suspension of Monthly Check); Comment Request

AGENCY: Department of Veterans Affairs, Veterans Benefits Administration.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments on information needed to request beneficiaries' current mailing address.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 30, 2011.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *http://www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0635'' in any correspondence. During the comment period, comments may be viewed online through FDMS

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or Fax (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Suspension of Monthly Check, VA Form 29–0759.

OMB Control Number: 2900–0635.

Type of Review: Extension of a currently approved collection.

Abstract: When a beneficiary's monthly insurance check is not cashed within one year from the issued date, the Department of Treasury returns the funds to VA. VA Form 29–0759 is used to advise the beneficiary that his or her monthly insurance checks have been suspended and to request the beneficiary to provide a current address or a banking institution for direct deposit for monthly checks.

Affected Public: Individuals or households.

Estimated Annual Burden: 200 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,200.

Dated: June 27, 2011.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Enterprise Records Service.

[FR Doc. 2011–16505 Filed 6–30–11; 8:45 am]

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Part II

Environmental Protection Agency

40 CFR Parts 49 and 51
Review of New Sources and Modifications in Indian Country; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 49 and 51

[EPA–HQ–OAR–2003–0076; FRL–9320–2]

RIN 2060–AH37

Review of New Sources and Modifications in Indian Country

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is finalizing a Federal Implementation Plan (FIP) under the Clean Air Act (CAA or Act) for Indian country. The FIP includes two New Source Review (NSR) regulations for the protection of air resources in Indian country. The first rule applies to new and modified minor stationary sources (minor sources) and to minor modifications at existing major stationary sources (major sources) throughout Indian country. The second rule (nonattainment major NSR rule) applies to new and modified major sources in areas of Indian country that are designated as not attaining the National Ambient Air Quality Standards (NAAQS). These rules will be implemented by EPA or a delegate Tribal agency assisting EPA with administration of the rules, until replaced by an EPA-approved implementation plan.

DATES: This final rule is effective on August 30, 2011.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2003–0076. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744 and the telephone number for the Air and Radiation Docket and Information Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Ms. Jessica Montañez, Air Quality Policy Division, Office of Air Quality Planning and Standards (C504–03), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–3407, facsimile number (919) 541–5509, e-mail address: *montanez.jessica@epa.gov*.

SUPPLEMENTARY INFORMATION: The information in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

Entities potentially affected by this final rule include owners and operators of emission sources in all industry groups located in Indian country, EPA and Tribal governments that are delegated administrative authority to assist EPA with the implementation of these Federal regulations. Categories and entities potentially affected by this action are expected to include:

Category	NAICS [a]	Examples of regulated entities
Industry	21111	Oil and gas production/operations.
	211111	Crude petroleum and natural gas extraction
	211112	Natural gas liquid extraction.
	212321	Sand and gravel mining.
	22111	Electric power generation.
	221210	Natural gas distribution.
	22132	Sewage treatment facilities.
	23899	Sand and shot blasting operations.
	311119	Animal food manufacturing.
	3116	Beef cattle complex, slaughter house and meat packing plant.
	321113	Sawmills.
	321212	Softwood veneer and plywood Manufacturing.
	32191	Millwork (wood products mfg).
	323110	Printing operations (lithographic).
	324121	Asphalt hot mix.
	3251	Chemical preparation.
	32711	Clay and ceramics operations (kilns).
	32732	Concrete batching plant.
	3279	Fiber glass operations.
	331511	Casting foundry (Iron).
	3323	Fabricated structural metal.
	332812	Surface coating operations.
	3329	Fabricated metal products.
	33311	Machinery manufacturing.
	33711	Wood kitchen cabinet manufacturing.
	42451	Grain elevator.
	42471	Gasoline bulk plant.
	4471	Gasoline station.
	54171	Professional, scientific and technical services.
	562212	Solid waste landfill.
	72112	Other (natural gas-fired boilers).[b]
	811121	Auto body refinishing.
Federal government	924110	Administration of Air and Water Resources and Solid Waste Management Programs.
State/local/Tribal government	924110	Administration of Air and Water Resources and Solid Waste Management Programs.

[a] North American Industry Classification System.
[b] Used NAICS code designated for casino hotels. However, the projected new and modified sources listed under ''other (natural gas–fired boilers)'' include not only boilers at casino hotels, but also new sources listed as ''boilers'' and new Tribal government facilities assumed to have natural gas fired boilers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in the final minor and major NSR programs for Indian country, 40 CFR 49.151 through 49.161 and through 49.175, respectively. If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final rule will also be available on the World Wide Web. Following signature by the EPA Administrator, a copy of this final rule will be posted in the regulations and standards section of our NSR home page located at *http://www.epa.gov/nsr* and on the Tribal air home page at *http://www.epa.gov/oar/tribal*.

II. Overview of the Final Rules

The EPA is ensuring that air resources in Indian country will be protected in the manner intended by the Act by establishing a preconstruction permitting program for new or modified minor sources, minor modifications at major sources, and new major sources or major modifications in nonattainment areas. In addition, we are establishing a minor source permitting mechanism for major sources that wish to voluntarily limit emissions to become synthetic minor sources [1] and for approving case-by-case maximum achievable control technology (MACT) determinations.[2] Prior to this action, there has been no

[1] Sources located within the exterior boundaries of Indian reservations in Idaho, Oregon and Washington can apply for a non-title V operating permit to establish synthetic minor status under the FIPs applicable to those reservations until this rule becomes effective. *See* 40 CFR 49.139 and 40 CFR part 49, subpart M. However, after the effective date of this rule, sources seeking synthetic minor status within the exterior boundaries of Indian reservations in these three states as well as the rest of Indian country must apply for synthetic minor source permits under the provisions of this rule.

[2] Section 112(g)(2)(B) of the Act provides that you may not construct or reconstruct a major source of HAPs unless the appropriate permitting authority determines that MACT for new sources will be met. If the Administrator has not established a MACT standard for the source category, the Act requires that MACT be determined on a case-by-case basis. *See* Section IV.E. of this preamble for more information on case-by-case MACT determinations.

Federal permitting mechanism for minor sources in Indian country and for major sources in areas of Indian country that are designated as not attaining the NAAQS. These final rules will fill this regulatory gap. In addition, these rules will provide regulatory certainty to allow for environmentally sound economic growth in Indian country.

The minor NSR rule applies to new and modified minor sources and to minor modifications at major sources. New minor sources with a potential to emit (PTE) equal to or greater than the minor NSR thresholds or modifications at minor sources with allowable emissions increases equal to or greater than the minor NSR thresholds must apply for and obtain a minor NSR permit prior to commencing construction of the new source or modification. At an existing major source, if a proposed modification does not qualify as a major modification (which would be subject to major NSR) based on the actual-to-projected-actual test, it is considered a minor modification and is subject to the minor NSR program requirements, if the net emissions increase from the actual-to-projected-actual test is equal to or exceeds the minor NSR thresholds listed in Table 1 of section IV.A.3 of this preamble. A major source with such a minor modification must apply for and obtain a minor NSR permit prior to commencing construction of the minor modification. In addition, these sources must install and operate control technology as determined by the reviewing authority on a case-by-case basis. At the discretion of the reviewing authority, such sources may also be required to submit air quality impact analyses as part of their permit applications. For minor sources, as an alternative to a site-specific permit, some sources can request for coverage under a general permit.[3]

This rule will also allow otherwise major sources in Indian country to voluntarily accept emission limitations on their PTE to become ''synthetic minor sources.'' Synthetic minor sources may include sources that emit regulated NSR pollutants and/or hazardous air pollutants (HAPs)[4] and any limitations on PTE must be enforceable as a practical matter (that is, both legally and practicably enforceable) as defined in this regulation under 40 CFR 49.152(d). The practice of creating synthetic minor sources to avoid major NSR and title V is common under most state and local minor NSR permitting programs. However, outside of Idaho, Oregon and Washington, no such minor source permitting mechanism has been available in Federal regulations for Indian country, which discouraged sources that could qualify as synthetic minors from locating in areas of Indian country outside these three states. We therefore believe that inclusion of this provision in the final rules will significantly benefit Tribes by encouraging larger sources that can qualify as synthetic minors to locate in Indian country, thereby promoting environmentally sound economic growth.

Synthetic minor sources will undergo site-specific permitting; that is, general permits will not be issued to synthetic minor sources. However, we intend to develop general permits for some common types of emissions units and minor sources to streamline the permitting process. The initial establishment of the general permit will include control technology review and associated emission limits. Thus, sources will not be required to conduct a case-by-case control technology review when they apply for coverage under a general permit.

Under the nonattainment major NSR rule, affected sources are required to comply with the provisions of 40 CFR part 51, Appendix S, a transitional rule which generally applies to areas that do not have an approved nonattainment major NSR program for a particular pollutant in their State Implementation Plan (SIP). Sources subject to this rule must meet requirements for Lowest Achievable Emission Rate (LAER) control technology, emissions offsets and compliance certification.

We are adopting these final rules after further evaluation of the proposed provisions and consideration of the public comments. On August 21, 2006 (71 FR 48696), EPA proposed the ''Review of New Sources and Modifications in Indian Country'' (*i.e.,* Tribal NSR rules). EPA also held an extensive outreach and consultation period (described in section III.D of this preamble), along with an extensive public comment period that ended on March 20, 2007. The comments provided detailed information specific to Indian country and the final rules incorporate many of the suggestions we received. We respond to many of these comments in explaining our rationale for the final rules, which is described in sections IV through VII.

The final rules adopt many elements of the proposal, but differ from the proposal in several important respects. For the minor NSR rule, we had proposed a 30-day public comment period for the initial establishment of the general permit and also proposed that coverage of individual sources under general permits would not undergo a public comment period. In the final rule, to address concerns from Tribes, we have slightly changed the proposed notification provisions. A source that wants to request coverage under the general permit will be required to submit such request to the reviewing authority. At the same time, the source owner must also submit a copy of this request to the Tribe in the area where the source is locating. We will also post notice of the coverage request under a general permit on our Web site. During our review of your request for coverage under the general permit, commenters can only notify us of any concerns about the eligibility of your source to obtain coverage under that general permit and not on any other issue. For the minor NSR rule, we had also proposed Plantwide Applicability Limitations (PALs) and project netting. A minor source PAL would have been a source-wide limitation on allowable emissions of a regulated NSR pollutant expressed in tons per year (tpy) that was enforceable as a practical matter. However, we are not finalizing minor source PALs after consideration of the comments we received. At this time, we are also not finalizing project netting, the calculation of the total emissions increase that would result from a proposed modification by summing both the increases and decreases resulting from the modification, since we decided not to take final action on project netting for the major NSR program. (*See* Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation and Project Netting; 74 FR 2376.)

Regarding the proposed list of emissions units and activities that will be exempted from the minor NSR program, we are finalizing an amended list. This list takes into consideration the comments received and the recent

[3] As described in section IV.C of this preamble, a general permit is a preconstruction permit that may be applied to a number of similar emission units or sources. The purpose of a general permit is to simplify the permit issuance process for similar facilities so that a reviewing authority's limited resources need not be expended for site-specific permit development for such facilities.

[4] In such cases, these sources will be subject to the minor NSR regulations under 40 CFR 49.151–49.165 and/or the applicable area source regulations under 40 CFR part 63. These sources will not be subject to the major NSR regulations under 40 CFR 52.21 (PSD) and 40 CFR 49.166 through 49.175 (nonattainment major NSR), the major source MACT regulations under 40 CFR part 63 and/or the title V operating permit regulations. For information on when a major HAP source can obtain federally enforceable limits on its potential to emit, *see* the policy memorandum titled: ''Potential to Emit for MACT Standards—Guidance on Timing Issues,'' John S. Seitz, EPA, May 16, 1995.

developments in greenhouse gas regulations. We are also committing to the development of a supplemental rule to determine if additional exempted units/activities should be added to the list.

Furthermore, to address commenters' concerns about EPA's ability to issue minor NSR permits on a timely basis, we have decided to phase in the implementation dates of these rules. For example, we are delaying the implementation date of this rule for new and modified true minor sources by the earlier of 6 months after the general permit for a source category is published in the **Federal Register** or 36 months from the effective date of this rule, that is, September 2, 2014. Existing true minor sources will not be subject to the requirements of the minor NSR program until they propose a modification. However, true minor sources will be required to register within 18 months from the effective date of this rule, that is, by March 1, 2013, or within 90 days after the source begins operation, whichever is later (see section VII.C of this preamble for more details on these provisions).

For the major NSR rule, we are not finalizing the proposed Appendix S, paragraph VI as an option for offset [5] waivers due to certain comments raising concerns with implementation of this waiver. Relative to the compliance certification requirement,[6] we are finalizing a state-wide compliance requirement consistent with section 173(a)(3) of the Act.

We are finalizing the minor NSR and the nonattainment major NSR permit programs pursuant to section 110(a)(2)(C), part D of title I and section 301(d) of the Act.

III. Background

A. What is the New Source Review (NSR) program?

1. What are the general requirements of the major NSR program?

The major NSR program contained in parts C and D of title I of the Act is a preconstruction review and permitting program applicable to new major sources and major modifications at such sources. In areas not meeting health-based NAAQS and in ozone transport regions (OTR), the program is implemented under the requirements of part D of title I of the Act. We call this program the ''nonattainment'' major NSR program. In areas meeting the NAAQS (''attainment'' areas) or for which there is insufficient information to determine whether they meet the NAAQS (''unclassifiable'' areas), the NSR requirements under part C of title I of the Act apply. We call this program the Prevention of Significant Deterioration (PSD) program. Collectively, we also commonly refer to these programs as the major NSR program. These rules are contained in title 40 of the Code of Federal Regulations (CFR), §§ 51.165, 51.166, 52.21 and 52.24 (40 CFR 51.165, 51.166, 52.21 and 52.24) and 40 CFR part 51, Appendices S and W.

For newly constructed, ''greenfield'' sources, the determination of whether a source is subject to the major NSR program is based on the source's PTE. The Act, as implemented by our rules, sets applicability thresholds for major sources in both attainment and nonattainment areas. For nonattainment areas, these thresholds are 100 tpy of any pollutant subject to regulation under the Act or smaller amounts, depending on the nonattainment classification. For attainment areas the thresholds are 100 or 250 tpy, depending on the source type.[7] A new source with a PTE at or above the applicable threshold amount ''triggers,'' or is subject to, major NSR.

For existing major sources, major NSR applies to a major modification. For a modification to be major, the following three criteria have to be met:

(1) A physical change in or change in the method of operation of a major source must occur;

(2) The increase in emissions resulting from this change must be significant (equal to or above the significance levels defined in 40 CFR 52.21(b)(23) for PSD or 40 CFR part 51, Appendix S, paragraph II.A.10 for nonattainment major NSR); and

(3) The increase in emissions resulting from the change must result in a significant net emissions increase. In other words, when the increase from the project is added to other contemporaneous increases and decreases in actual emissions [8] at the source, the net emissions increase must be significant (equal to or above the significance levels defined in 40 CFR 52.21(b)(23) for PSD or 40 CFR part 51, Appendix S, paragraph II.A.10 for nonattainment major NSR).

Major sources and major modifications subject to nonattainment major NSR must apply state-of-the-art emissions control technologies, including any pollution prevention measures, to achieve the lowest achievable emission rate. The lowest achievable emission rate is based on the most stringent emission limitation in the implementation plan of any state or achieved in practice, for the source category under review.

Each major source subject to nonattainment major NSR must also offset its emissions increase by obtaining emissions reductions from other sources in the area or in an area of equal or higher nonattainment classification that contributes to nonattainment in the proposed major source's area. The ratio of the offset relative to the proposed increase must be at least one-to-one and is based on the severity of the area's nonattainment classification. For ozone and particulate matter less than or equal to 10 microns in aerodynamic diameter (PM_{10}), the more polluted the air is where the source is locating or expanding, the greater the required offset ratio is. The emissions reductions to be used as offsets must be surplus (not otherwise required by the Act), quantifiable, Federally enforceable and permanent. *See* sections 173(a) and (c) of the Act and 40 CFR 51.165(a)(3).

Additionally, each nonattainment major NSR permit applicant must also conduct an analysis of alternative sites, sizes, production processes and environmental control techniques demonstrating that the benefits of the proposed emissions source significantly outweigh the environmental and social costs of its location, construction or modification. Moreover, each nonattainment major NSR permit applicant must demonstrate that all other major sources under her/his control in the same state are in compliance or on a schedule of compliance with all emission limitations and standards of the Act.

[5] Under the CAA, emissions reductions (offsets) from existing sources in the area of the proposed source (whether or not under the same ownership) are obtained such that there will be reasonable progress towards attainment of the applicable NAAQS. *See* section 173(a)(1) of the Act.

[6] Also under the CAA, a permit applicant must certify that all existing major sources owned or operated by the applicant (or any entity controlling, controlled by or under common control with the applicant) in the same state as the proposed source are in compliance with (or under a federally-enforceable compliance schedule for) all applicable emission limitations and standards under the Act. *See* section 173(a)(3) of the Act.

[7] Sources listed in section 169(l) of the Act are subject to a threshold of 100 tpy (*see* 40 CFR 52.21(b)(1)(i)(*a*)). All other sources are subject to a 250 tpy threshold. (*See* 40 CFR 52.21(b)(1)(i)(*b*).) In addition, under the recently finalized ''Greenhouse Gas Tailoring Rule,'' greenhouse gases will be phased into the PSD program with higher applicability thresholds (75 FR 31514).

[8] In approximate terms, ''contemporaneous'' emissions increases or decreases are those that have occurred between the date 5 years immediately preceding the proposed physical or operational change and the date that the increase from the change occurs. *See* 40 CFR 52.21(b)(3)(ii) for PSD. For nonattainment major NSR, *see,* 40 CFR part 51, Appendix S, paragraph II.A.6(ii).

Under the PSD program for attainment areas, a major source or modification must apply Best Available Control Technology (BACT), which may be based on pollution prevention techniques. In addition, the source must analyze the impact of the project on ambient air quality to assure that no violation of the NAAQS or PSD increments will result and must analyze impacts on soil, vegetation and visibility. Sources or modifications that would impact Class I areas (*e.g.,* national parks) may be subject to additional requirements to protect air quality related values (AQRVs) that have been identified for such areas.

2. What are the general requirements of the minor NSR program?

Section 110(a)(2)(C) of the Act requires that every SIP include a program to regulate the construction and modification of stationary sources, including a permit program as required by parts C and D of title I of the Act, to ensure attainment and maintenance of the NAAQS. Parts C and D address the major NSR program for major sources and the permitting program for minor sources is addressed by section 110(a)(2)(C) of the Act. We commonly refer to the latter program as the minor NSR program. A minor source means a source whose PTE is lower than the major NSR applicability threshold for a particular pollutant as defined in the applicable nonattainment major NSR program or PSD program.

States must develop minor NSR programs to attain and maintain the NAAQS and the Federal requirements for state minor NSR programs are outlined in 40 CFR 51.160 through 51.164. These Federal requirements for minor NSR programs are considerably less prescribed than those for major sources and as a result there is a larger variation of requirements in the state minor NSR programs.

Furthermore, Section 110(a)(2)(C) of the Act provides us with a broad degree of discretion in developing a program to regulate new and modified minor source construction activities in Indian country.

B. What is the basis for EPA's authority to implement CAA programs in Indian country?

The Tribal Authority Rule (TAR) authorizes eligible Indian Tribes to implement EPA-approved nonattainment major NSR (part D of title I of the Act), PSD (part C of title I of the Act) and other programs under the Act in the same manner as states. This is accomplished when Indian Tribes develop Tribal Implementation Plans (TIPs), which are plans similar to SIPs. If a Tribe develops a TIP to implement a CAA program, the TIP, once it is approved, will replace the Federal program as the requirement for that area of Indian country and the Tribe will become responsible for implementing that particular program. However, if Indian Tribes are unable or choose not to include a CAA program such as NSR in a TIP, we will implement the program under these rules.

The Act provides us with broad authority to protect air resources throughout the Nation, including air resources in Indian country. *See,* for example, the preamble discussion for the proposed and final TAR (59 FR 43956, 43958–61, August 25, 1994; 63 FR 7254, 7262–64, February 12, 1998) and the preamble discussion for the proposed revisions to the part 71 Federal operating permits program for Indian country (62 FR 13748, 13750, March 21, 1997). In the preambles to the proposed and final TAR, we discussed generally the legal basis under the Act for EPA and Tribal regulation of sources of air pollution in Indian country. We concluded that the Act constitutes a statutory delegation of Federal authority to eligible Tribes over all sources of air pollution within the exterior boundaries of their reservations.

Further, under the Act, Tribes may also apply to administer Tribal air quality programs for non-reservation areas over which they can show jurisdiction.[9] *See* 63 FR 7254–7259; 59 FR 43958–43960; *Arizona Public Service Co.* v. *EPA,* 211 F.3d 1280 (DC Cir. 2000), cert. den., 532 U.S. 970 (2001).

In the preamble to the TAR, we also concluded that the Act authorizes us to protect air quality throughout Indian country. *See* 63 FR 7262, 59 FR 43960–43961 citing sections 101(b)(1), 301(a) and 301(d) of the Act.

In addition, section 301(a) of the Act provides us broad authority to issue such regulations as are necessary to carry out the mandates of the Act. Several provisions of the Act call for Federal implementation of a program where, for example, a state or in this case a Tribe, fails to adopt a program or adopts an inadequate program. *See,* for example, sections 110(c)(1), 502(d)(3) and 502(i)(4) of the Act. These provisions exist in part to ensure that the benefits of the Act are realized throughout the United States, whether or not local governments choose to participate in implementing the Act. Especially in light of the problems associated with transport of air pollution across state and Tribal boundaries, it follows that Congress intended that we have the authority to operate a Federal program in the absence of an adequately implemented EPA-approved program. *See,* for example, 59 FR 43958–61, August 25, 1994; 62 FR 13750, March 21, 1997 and 63 FR 7262–64, February 12, 1998.

This interpretation is most evident from Congress' grant of authority to the EPA under section 301(d)(4) of the Act. Section 301(d)(4) authorizes the Administrator to directly administer provisions of the Act so as to achieve the appropriate purpose where Tribal implementation of those provisions is inappropriate or administratively infeasible. We determined that it is inappropriate to subject Tribes, among other things, to the mandatory submittal deadlines and to the related Federal oversight mechanisms in section 110(c)(1) of the Act, which are triggered when we make a finding that states have failed to meet required deadlines or disapprove a state plan submittal. *See* 40 CFR 49.4(d).

By determining that Tribes should not be treated similarly to states for purposes of the specific FIP obligation under section 110(c)(1) of the Act, we are not relieved of the general obligation

[9] We believe that in the context of programs under the Act, states generally lack the authority to regulate air quality in Indian country as defined in 18 U.S.C. 1151. *See Alaska* v. *Native Village of Venetie Tribal Government,* 522 U.S. 520, 527 fn. 1 (1998) (''Generally speaking, primary jurisdiction over land that is Indian country rests with the Federal Government and the Indian tribe inhabiting it and not with the States.''), *California* v. *Cabazon Band of Mission Indians,* 480 U.S. 202 (1987) and *HRI* v. *EPA,* 198 F.3d 1224 (10th Cir. 2000); see also discussion in EPA's final rule for the federal operating permits program (64 FR 8251–8255, February 19, 1999). To provide additional certainty to regulated entities, we believe it is helpful to clarify the extent to which state NSR programs have force in Indian country. We interpret past approvals and delegations of NSR programs as not extending to Indian country unless the state has made an explicit demonstration of jurisdiction over Indian country and we have explicitly approved or delegated the state's program for such area. This is consistent with Congress' requirement that we approve state and tribal programs only where there is a demonstration of adequate authority. *See* sections 110(a)(2)(E), 110(o) and 301(d) of the Act and 40 CFR part 49. Since states generally lack the authority to regulate air resources in Indian country, we do not believe it would be appropriate for us to approve state programs under the Act as covering Indian country where there has not been an explicit demonstration of adequate jurisdiction and where we have not explicitly indicated our intent to approve the state program for an area of Indian country. In state NSR program approvals and delegations, we generally were not faced with state assertions of authority to regulate sources in Indian country. However, to the extent states or others may have interpreted our past approvals or delegations that were not based on explicit demonstrations of adequate authority and did not explicitly grant approval in Indian country as approvals to operate NSR programs in Indian country, we wish to clarify any such misunderstanding.

under the Act to ensure the protection of air quality throughout the Nation, including throughout Indian country. Rather, consistent with the provisions of sections 301(a) and 301(d)(4) of the Act, we expressed our intent to promulgate without unreasonable delay such FIP provisions as are necessary or appropriate to protect air quality if Tribal efforts do not result in adoption and approval of Tribal plans or programs. *See* 63 FR 7265, 40 CFR 49.11.

Under section 301(d)(4) of the Act, Congress authorized the EPA to maintain the territorial approach by implementing the Act in Indian country in the absence of an EPA-approved program. We believe that Congress authorized us, consistent with our Indian policy, to avoid the checker-boarding of Indian reservations based on land ownership by Federally implementing the Act over all reservation sources in the absence of an EPA-approved Tribal program. *See* S. Rep. No. 228, 101st Cong., 1st Sess. 79 (1989) (implementation of the Act to be in a manner consistent with EPA's Indian policy). In addition, section 301(d)(4) authorized us to implement the Act in non-reservation areas of Indian country in order to fill any gap in program coverage and to ensure an efficient and effective transition to EPA-approved programs.

Our interpretation of section 301(d) of the Act as authorizing our implementation throughout Indian country is also supported by the legislative history. *See* S. Rep. No. 228, 101st Cong., 1st Sess. 80 (1989) (noting that section 301(d) of the Act authorizes the EPA to implement provisions of the Act throughout ''Indian country'' when there is no approved Tribal program); *Id.* at 80 (noting that criminal sanctions are to be levied by the EPA, ''consistent with the Federal government's general authority in Indian country''); *Id.* at 79 (the purpose of section 301(d) of the Act is to ''improve the environmental quality of the air within Indian country in a manner consistent with the EPA Indian Policy'').

Therefore, with these final rules, we will exercise our authority to administer the minor NSR permitting program and the nonattainment major NSR program in Indian country, which is generally the area over which a Tribe may potentially receive approval of programs under the Act. As noted in the final TAR, we interpret the Act as establishing a territorial approach to implementation of the Act within Indian country by delegating to eligible Tribes authority over all reservation sources without differentiating among the various categories of on-reservation lands (63 FR 7254–7258). In addition, the Act authorizes eligible Tribes to implement Tribal programs under the Act in non-reservation areas over which a Tribe has jurisdiction, generally including all areas of Indian country (63 FR 7258–7259).

In order to further our commitment to use our authority under the Act to protect air quality throughout Indian country by directly implementing the Act's requirements, we are now exercising the rulemaking authority entrusted to us by Congress to directly implement the minor NSR permitting program and nonattainment major NSR permitting program throughout all areas of Indian country. *See* generally, *Chevron USA, Inc.* v. *NRDC,* 467 U.S. 837, 842–45 (1984).

C. What is the status of the NSR air quality programs in Indian country?

No Tribe is currently administering an EPA-approved PSD program. Therefore, EPA has been implementing a FIP for major sources in attainment areas and has been issuing PSD permits in Indian country. *See* 40 CFR 52.21. For the nonattainment major NSR program or the minor NSR program in Indian country, no Tribes have been administering an EPA-approved nonattainment major NSR program and only a few Tribes have been administering EPA-approved minor NSR programs.[10] In addition, there has been no FIP in place to implement these programs until now. Hence, there was a regulatory gap in Indian country. This final rule will allow us to address that gap and more fully implement the NSR program in Indian country. We are finalizing the minor NSR program at 40 CFR 49.151 through 49.165 and the nonattainment major NSR program at 40 CFR 49.166 through 49.175 and these programs will continue to apply except where we explicitly approve an implementation plan for such programs for a specific area in Indian country.[11] The requirements finalized under these rules do not apply to State permitting programs.

As we stated previously, sections 301(d) and 110(o) of the Act give the Tribes the authority to develop their own Tribal programs and we encourage eligible Tribes to develop their own minor and nonattainment major NSR programs for incorporation into TIPs. However, we understand that not all Tribes have the resources to design and implement NSR programs; therefore, in the absence of an EPA-approved program, this final rulemaking provides a Federal program for implementing the minor NSR and the major NSR program in nonattainment areas of Indian country. Tribes may use this program as a model if they choose to develop their own Tribal Implementation plans and obtain our approval.

Since, in most cases and in the absence of an EPA-approved program, it would be neither practical nor administratively feasible for us to develop and implement a separate program for each area of Indian country,; these final rules will implement a flexible FIP for Indian country that provides new and modified minor sources and major sources in nonattainment areas with procedures to demonstrate that they will be operating in a manner that is protective of air resources and the NAAQS. In addition, these rules will ensure that any economic growth occurring in Indian country will be in harmony with the preservation of Clean Air Act resources.

D. What consultation and outreach has been done with Tribal leaders and representatives?

Prior to undertaking this rulemaking, we sought to include Tribes early in the rulemaking process. On June 24, 2002, we sent approximately 500 letters to Tribal leaders seeking their recommendations for effective consultation and their involvement in developing these rules.

We received responses from 75 Tribes. Of these 75 Tribes, 69 designated an environmental staff member to work with us on developing the rules. Aside from the designated staff, many Tribal leaders asked that we keep them informed of our progress through e-mail, meetings with the EPA Regional Offices, newsletters and Web sites. In addition, 53 percent of the Tribal leaders also requested direct phone calls or conference calls to discuss the subject and 16 percent of the respondents requested face-to-face consultation. Of these, six Tribes requested senior EPA staff to meet with Tribal leaders.

As a result of this feedback, we developed a consultation plan that included three meetings held at the reservations of the Menominee Tribe in Wisconsin, the Mohegan Tribe in Connecticut and the Chehalis Tribe in Washington. A fourth meeting was held

[10] For example, the St. Regis Mohawk Tribe has in place an EPA-approved TIP that includes provisions for minor NSR and synthetic minor permitting (*See* http://www.srmtenv.org/pdf_files/airtip.pdf). In addition, the Gila River Indian Community has developed a TIP that includes a minor NSR program (*See http://www.epa.gov/region9/air/actions/gila-river.html*).

[11] Although many states have developed regulatory programs for minor sources, those programs do not apply in Indian country unless explicitly approved by EPA for such areas.

in conjunction with the Institute of Tribal Environmental Professionals' (ITEP) 10th anniversary meeting in Flagstaff, Arizona. In addition to conducting these meetings, we also visited Tribal environmental staff in Indian country. Over 30 Tribes attended these meetings. We also participated in numerous national and regional forums including the National Tribal Forums sponsored by the ITEP, two National Tribal Air Association meetings and meetings with Tribal consortia, such as the National Tribal Environmental Council, United Southern and Eastern Tribes, Inter-Tribal Environmental Council, Inter Tribal Council of Arizona and others.

Although much of our effort focused on outreach to the Tribes, we also interacted with state and local air pollution control agencies during development of these rules. We had two meetings with the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officers (STAPPA/ALAPCO) to present the draft rules.[12]

We considered feedback from all stakeholders and proposed the ''Review of New Sources and Modifications in Indian Country'' rules on August 21, 2006 (71 FR 48696). However, Tribal government representatives expressed concerns that the long gap between consultation/outreach and action by the Agency undermined the effectiveness of these interactions. Thus, after proposal of the rule, we started an extensive outreach program in the years 2006 and 2007 to inform and seek comments from the public, especially Tribes.

We again sent over 500 letters to Tribal leaders to inform them about the proposal. We did not receive any formal responses to these letters and did not receive any request for formal consultation from the Tribes, but they contacted us either through e-mail or phone calls and asked to keep them informed of our progress through e-mail, meetings, training sessions, newsletters and/or Web sites. To enhance understanding of the proposal and what it would mean for Indian country, we supplemented the 2006 outreach efforts by holding four training sessions using Web conferencing not only for Tribes, but also for EPA Regional Offices, air program managers and Tribal organizations. We also held training sessions in 2006 and at the request of the Tribes for interested Tribal and other environmental professionals at the Pechanga Band of Luiseño Indians in California and Salt River Pima-Maricopa Indian Community in Arizona. In addition, we held training sessions for all interested parties at EPA Region V's Tribal Air Meeting in Illinois (2006) and EPA's Region X's office in Washington (2007).

We participated in numerous national and regional forums including the forums sponsored by the Institute of Tribal Environmental Professionals, the National Tribal Air Association and at meetings with Tribal consortia, such as the United Southern and Eastern Tribes. We also interacted with state and local air pollution agencies during this outreach period and had meetings with the NACAA.

Furthermore, we extended and reopened the comment period for the proposed rules twice (from November 20, 2006 to January 19, 2007 and from January 19, 2007 to March 20, 2007) at the request of the Tribes. During this time, we also recorded and presented a webcast video for all interested stakeholders to train more environmental professionals about the NSR program and the rules themselves.

To address the concern about the long gap between the proposal and finalization of the rules and to ensure that the Tribes are aware of the proposed rules and their provisions, we held a series of meetings in 2010 with the National Tribal Operations Committee, interested Regional Tribal Operations Committees and interested Tribal environmental staff. In 2011, we sent letters to all Tribes to ask them about their interest in an additional round of consultation and outreach and, based on their responses, we have conducted consultation and outreach meetings with several Tribes. These meetings included a face-to-face meeting in Denver, Colorado with a number of Tribes within EPA Region VIII and four conference calls with Tribes from across the country.

After these rules are promulgated, we intend to conduct similar outreach efforts with all stakeholders, including extensive training to facilitate easier implementation of the rules.

IV. Final Minor NSR Program for Indian Country

This rulemaking finalizes provisions for a minor NSR program in Indian country, codified at 40 CFR 49.151 through 49.165. The program includes requirements for preconstruction review for minor sources and minor modifications, general permits and synthetic minor source permits. The minor NSR program also serves as a mechanism for case-by-case MACT determinations and establishes a registration system for existing minor sources to improve the Tribal source emission inventory.

Our primary goal in developing this program is to ensure that air resources in Indian country will be protected in the manner intended by the Act. In addition, we seek to establish a flexible preconstruction permitting program for minor sources in Indian country that is comparable to similar programs in neighboring states in order to create a more level regulatory playing field for owners and operators within and outside of Indian country.

This final rulemaking is not intended to establish a new set of minimum criteria that a Tribe or a state would need to follow in developing its own minor source permitting program. Rather, these rules simply represent how we will implement the program in Indian country in the absence of an EPA-approved Tribal implementation plan. However, if a Tribe is developing its own program, this can serve as one example of a program that meets the objectives and requirements of the Act. This final minor source permitting program addresses, on a national level, many environmental and regulatory issues that are specific to Indian country. We understand that different Tribes may face different issues and may therefore, like states developing SIPs, choose to develop TIPs tailored to their individual Tribal circumstances and needs. This rule will allow Tribes to develop their own TIPs, consistent with the overarching requirement that the Tribe ensure that the TIP will not interfere with any applicable requirement of the CAA.

A. General Provisions Under the Minor NSR Program

1. What is a minor source and which minor sources are subject to this rule?

a. Minor Source Definition

We are finalizing under 40 CFR 49.152 that a minor source, for the purposes of this rule, means a source, not including the exempt emissions units and activities listed in § 49.153(c), that has the potential to emit regulated NSR pollutants in amounts that are less than the major source thresholds in 40 CFR § 49.167 or § 52.21, as applicable, but equal to or greater than the minor NSR thresholds in § 49.153. The potential to emit includes fugitive emissions, to the extent that they are quantifiable, only if the source belongs to one of the source categories listed in 40 CFR part 51, Appendix S, paragraph II.A.4(iii) or 52.21(b)(1)(iii), as applicable.

[12] This organization has since changed its name to the National Association of Clean Air Agencies (NACAA).

A source's PTE for a pollutant is expressed in tpy and generally is calculated by multiplying the maximum hourly emissions rate in pounds per hour (lbs/hr) times 8,760 hours (which is the number of hours in a year) and dividing by 2,000 (which is the number of pounds in a ton). If a source is restricted by permit conditions that limit its emissions and are enforceable as a practical matter (as defined in 40 CFR 49.152), its PTE (and allowable emissions) are calculated based on the permit restrictions.

For the NSR program in Indian country, the major source thresholds are defined in the PSD program (*see* 40 CFR 52.21) and in the nonattainment major NSR program being finalized in this action (*see* 40 CFR 49.167), as applicable. These thresholds may differ in attainment areas and nonattainment areas for the same pollutant. For example, in attainment areas the major source threshold for nitrogen oxides (NO_X) is 250 tpy, unless the source belongs to a source category that is listed in the major NSR rules (*see* 40 CFR 52.21(b)(1)(i)(*a*)), in which case the major source threshold is 100 tpy. In contrast, the major source threshold for NO_X in ozone nonattainment areas can vary from 10 tpy in an extreme ozone nonattainment area to 100 tpy in a marginal ozone nonattainment area (*see* 40 CFR part 51, Appendix S, paragraph II.A.4(i)). The final rule establishes minor NSR thresholds as discussed in section IV.A.3 of this preamble.

This minor source definition differs from the definition in the proposal by providing the following clarifications. We clarified that *de minimis* exceptions (*i.e.,* minor NSR thresholds) and insignificant source categories or activities being finalized under this rule are not considered minor sources for purposes of this rule and eliminated the sentence in the proposed definition that stated the term ''minor stationary source applies independently to each regulated NSR pollutant that the source has the potential to emit.''

A few commenters asked us to accommodate in the minor source definition references to the *de minimis* exceptions (*i.e.,* minor NSR thresholds) and insignificant source categories or activities being finalized under this rule and we believe it is appropriate to do so. In addition, since the source can only be a minor source if the PTE of all regulated NSR pollutants for that source are less than the corresponding major source thresholds, we deleted from the definition the statement that read: ''the term 'minor stationary source' applies independently to each regulated NSR pollutant that the source has the potential to emit.''

Furthermore, we have amended the minor source definition to specify that the PTE of a source includes fugitive emissions, to the extent that they are quantifiable, only if the source belongs to one of the source categories listed in 40 CFR 52.21(b)(1)(iii) (for PSD) and 40 CFR part 51, Appendix S, paragraph II.A.4(iii) (for nonattainment major NSR) of the major NSR rules pursuant to section 302(j) of the Act. This action is explained further in the next section.

b. Determining Applicability for New Minor Sources

As stated in the proposal, in all NSR applicability determinations, you must evaluate each regulated NSR pollutant individually because the area where your source is located may be attainment for some pollutants and nonattainment for others. For a given new source or modification, a particular pollutant may be subject to review under PSD, nonattainment major NSR or minor NSR or may not be subject to any of these programs.

For proposed new sources, the first step is to calculate the potential to emit of each regulated NSR pollutant. The second step is to determine whether the source is subject to the applicable major NSR program (*i.e.,* 40 CFR 49.167 or 40 CFR 52.21 for nonattainment and attainment areas, respectively) with respect to each regulated NSR pollutant. Under the nonattainment major NSR program, this step is repeated for each regulated NSR pollutant the source has the potential to emit. Under the PSD program, if the source's potential to emit is greater than the major source threshold for one pollutant, then PSD applies to any other regulated NSR pollutants for which the potential to emit is above the level defined as ''significant'' in the PSD regulations.[13] The significance level is typically lower than the major source threshold; for example, the significance level for PM_{10} is 15 tpy while the major source threshold is 100 or 250 tpy.

If your proposed new source is not subject to major NSR for a particular regulated NSR pollutant, the next step is to determine whether the source is subject to the requirements of this minor NSR rule for that pollutant, *i.e.,* if the source's potential to emit of the pollutant is equal to or greater than the applicable minor NSR threshold listed in Table 1 of this final rule. These steps are repeated for every regulated NSR pollutant the source has the potential to emit. However, for a source to be considered a minor source, the PTE of all regulated NSR pollutants must be less than the corresponding major source threshold.

In determining if the source's potential to emit of a pollutant is equal to or greater than the applicable minor NSR threshold listed in Table 1 of this final rule, fugitive emissions will be included to the extent that they are quantifiable, only if the source belongs to one of the source categories listed pursuant to section 302(j) of the Act (*i.e.,* the source categories listed in 40 CFR part 51, Appendix S, paragraph II.A.4(iii) and in 40 CFR 52.21(b)(1)(iii)).

We are finalizing this provision after seeking comment in the proposal as to whether in calculating the emission levels for applicability purposes, you should include fugitive emissions, to the extent they are quantifiable, for all sources or include them only for source categories listed pursuant to section 302(j) of the Act or exclude them for all sources.

Commenters who supported the approach of including fugitive emissions for all sources believed that the mandate of the minor NSR program is based on protection of air quality throughout the nation. Additionally, they believed that fugitive emissions are a large proportion of the air pollutants in Indian country and therefore EPA must require fugitive emissions to be included in determining applicability. However, many commenters argued that fugitive emissions at minor sources are minuscule and a requirement to include them would be excessive. Some of these commenters believed that the costs for complying with minor NSR for fugitive emissions could potentially be substantial and that fugitive emissions are inherently difficult to quantify. In addition, one commenter added that fugitive emissions should only be included for source categories listed under section 302(j) of the Act, citing an extensive analysis of the history of regulating fugitive emissions under NSR.

Based on the comments received, we are finalizing provisions that require including fugitive emissions in the minor NSR applicability determination, to the extent that they are quantifiable, only if the source belongs to one of the source categories listed pursuant to section 302(j) of the Act (*i.e.,* the source categories listed in 40 CFR part 51, Appendix S, paragraph II.A.4(iii) and in 40 CFR 52.21(b)(1)(iii)), for the following reasons.

For the source categories listed pursuant to section 302(j) we have historically identified these source

[13] The significance levels are defined in 40 CFR 52.21(b)(23).

categories as having the potential to significantly degrade air quality and it has been demonstrated to be reasonable and cost effective for sources in these categories to quantify and include their fugitive emissions in applicability determinations. We will continue to require these source types to quantify fugitive emissions in determining applicability of minor NSR. While some other source categories also contribute significantly to air pollution, we have thus far not required counting their fugitive emissions in determining applicability because of unreasonable economic costs associated with doing so (See 54 FR 48879).

We have the discretion under CAA section 110(a)(2)(c) to follow a similar approach in the minor source program as long as the NAAQS are protected and we are using that discretion because we believe it would be unreasonably cumbersome and costly to expect the wide variety of minor source types not on the section 302(j) list to be able to quantify their fugitive emissions.

Without discounting the fact that fugitive emissions from individual sources or source categories may be significant contributors to air pollution, we believe that, as a whole, the air quality impacts of emissions from the number of sources that would likely be excluded from minor NSR because of exclusion of their fugitive emissions are likely to be small and therefore not commensurate with the regulatory and economic burden we would impose on minor sources in Indian country if we were to require the estimation of fugitive emissions for all minor sources and subject them to permitting based on those emissions. This is especially the case since we are developing a program that applies generically to sources in Indian country regardless of whether fugitive emissions from major or minor sources are a significant source of air pollution in a specific location. Given this diversity and the potential costs, our approach strikes a reasonable balance.

Finally, this approach in our final rule is consistent with how fugitive emissions are treated in some state minor source programs. Therefore, we are finalizing the new minor source applicability requirements mainly as proposed and under 40 CFR 49.153(a).

2. What is a modification and which modifications are subject to this rule?

a. Definition of ''Modification''

Under this final rule, a modification means any physical or operational change that would cause an increase in the allowable emissions of a minor source or an increase in the actual emissions (based on the applicable test under the major NSR program) of a major source for any regulated NSR pollutant or that would cause the emission of any regulated NSR pollutant not previously emitted. Allowable emissions of a minor source include fugitive emissions, to the extent that they are quantifiable, only if the source belongs to one of the source categories listed in 40 CFR 52.21(b)(1)(iii) for PSD and 40 CFR part 51, Appendix S, paragraph II.A.4(iii) for nonattainment major NSR. The following exemptions apply:

- A physical or operational change does not include routine maintenance, repair or replacement.[14]
- An increase in the hours of operation or in the production rate is not considered an operational change unless such change is prohibited under any permit condition that is enforceable as a practical matter (as defined in 40 CFR 49.152).
- A change in ownership at a stationary source.
- The emissions units and activities listed in 40 CFR 49.153(c).

We are finalizing this definition under 40 CFR 49.152 after requesting comments as to whether the term modification should be based on an increase in allowable emissions or actual emissions.

Commenters who supported our proposal to adopt a definition of the term ''modification'' based on an increase in allowable emissions (allowable-to-allowable test) believed that this test would be a simpler test than the actual-to-projected-actual test that applies to the major NSR program; it will be less costly, less time consuming and less complicated for Tribal minor sources and it is legal under the CAA and consistent with some state and local minor NSR programs that we have approved in SIPs pursuant to section 110 of the Act. On the other hand, commenters who opposed the allowable emissions test believed that this test is less stringent than the alternative tests and/or it is contrary to the Act and recent court decisions. They also believed that the allowable-to-allowable test will be inconsistent with the major NSR program and it does not ensure that the NAAQS are achieved (*i.e.,* it could lead to unreviewed increases in emissions that would be detrimental to air quality). Furthermore, some of these commenters believed that an allowable-to-allowable test will not capture those sources that escape major NSR review and suggested the use of an actual-emissions-based test which could include an actual-to-potential, actual-to-projected-actual or an actual-to-future-actual test.

For the most part, we agree with those commenters that endorsed the concept of defining the term modification for the minor NSR program as a change in allowable emissions. As we stated in the proposal (71 FR 48696), we evaluated the three basic types of applicability tests (actual-to-potential, actual-to-projected-actual and allowable-to-allowable) and determined that the allowable-to-allowable test is the most suitable for Indian country because, apart from being a simple test, it will help with implementation of the program for the minor sources in Indian country that, to date, have little experience with air regulations. Since minor sources in Indian country have been unregulated until now, many of these sources have not kept track of actual emissions data, making the initial application of any test based on actual emissions virtually impossible. In addition, we understand that some state minor NSR programs use an allowable-to-allowable test which would make this program for Indian country consistent with the programs in these states.

In addition and as we discussed in the proposal preamble, we believe that we have the discretion to use an allowable-to-allowable test for this minor NSR program because the statutory basis for minor NSR is section 110(a)(2)(C) of the Act. By contrast, parts C and D of title I of the Act provide the statutory basis for the major NSR program and refer to section 111(a)(4) of the Act (the definition of ''modification'' for purposes of the new source performance standards (NSPS)) in defining ''modification'' for purposes of the major NSR program. The DC Circuit Court of Appeals has ruled that, based on the wording of the definition of

[14] ''For over two decades,'' EPA has interpreted ''the RMRR exclusion as limited to *de minimis* circumstances.'' *New York* v. *EPA,* 443 F.3d 880, 884 (DC Cir. 2006), cert. denied 127 S. Ct.2127 (2007) (citing *Alabama Pow. Co,* v. *Costle,* 636 F.2d 323 (DC Cir 1980)). EPA's historic policy is that ''in determining whether proposed work at an existing facility is 'routine,' EPA makes a case-by-case determination by weighting the nature, extent, purpose, frequency and cost of the work, as well as other relevant factors, to arrive at a common-sense finding.'' Memorandum from Don R. Clay, Acting Assistant Administrator, Office of Air and Radiation, U.S. EPA, ''Applicability of Prevention of Significant Deterioration (PSD) and New Source Performance Standards (NSPS) Requirements to the Wisconsin Electric Power Company (WEPCO) Port Washington Life Extension Project'' (Sep. 9, 1988) (*http://www.epa.gov/region07/air/nsr/nsrmemos/wpco2.pdf*). EPA further explained these factors in letter dated May 23, 2000 from Francis X. Lyons, Regional Administrator, Region V, U.S. EPA, to Henry Nickel, Counsel for the Detroit Edison Company, Hunton & Williams (*http://www.epa.gov/region07/air/nsr/nsrmemos/detedisn.pdf*).

''modification'' in section 111(a)(4) of the Act, the applicability of major NSR to modifications must be based on changes in actual emissions (*State of New York* v. *U.S. EPA,* 413 F. 3d 3 (DC Cir. 2005). However, that reasoning based on the definition in section 111 of the Act does not apply to minor source permitting because the statutory basis for the minor NSR program is section 110(a)(2)(C) of the Act, which does not define or refer to a definition of ''modification.'' Thus, we believe that we have discretion in defining the term for the minor NSR program in Indian country and we do not believe that the decision of the DC Circuit Court of Appeals applies to the minor NSR program.

To address the concerns of those commenters who expressed that the allowable-to-allowable test is less stringent than an actual-emissions-based test or that this test is at odds with section 110(a)(2)(C) of the Act, we commit to conducting a study to collect actual emissions data for a period of 5 years from the minor source registration program [15] we are finalizing with this rule to assess the feasibility of implementing an actual-emissions-based test. If our study concludes that adequate actual emissions data are available for minor sources, we will consider undertaking a rulemaking to adopt an actual-emissions-based test within 2 years from the end of the 5-year study period.

Furthermore, because of our concern that some minor modifications at major sources might escape review under the minor NSR program as proposed, we are finalizing that the applicability of the minor NSR program to minor modifications at major sources be based on the actual-to-projected-actual test used in the applicable major NSR program. Thus, in the final rule, if a proposed modification at an existing major source does not qualify as a major modification (which would be subject to major NSR) based on the actual-to-projected-actual test, it is considered a minor modification and is subject to the minor NSR program if the net emissions increase from the actual-to-projected-actual test is equal to or exceeds the minor NSR thresholds listed in Table 1 in section IV.A.3 of this preamble. The rationale for using an allowable-to-allowable test for modifications at minor sources in Indian country—that actual emissions data are not available for minor sources and an actual-emissions-based test would be beyond the capabilities of many minor sources—does not apply to modifications at major sources. We believe this approach will be simpler and more efficient than an approach requiring the use of a second, allowable-to-allowable test for the minor NSR program. Hence, we are revising the definition of modification under 40 CFR 49.152 accordingly.

We are also making a change to the definition of modification related to the treatment of fugitive emissions. Now this definition includes provisions to account for fugitive emissions, to the extent they are quantifiable, only if the source belongs to one of the source categories listed pursuant to section 302(j) of the Act (*see* previous section for details on why we are including fugitive emissions in the minor NSR applicability determinations).

b. Determining Applicability for Modifications

To determine if your proposed physical or operational change is subject to the minor NSR program (*see* final 49.153(a)(1)(ii) and 49.153(b)), you must first determine whether the change is subject to the applicable major NSR program (*i.e.,* 40 CFR part 51, Appendix S or 40 CFR 52.21 for nonattainment and attainment areas, respectively). For physical or operational changes at your existing major source, you would determine whether the modification qualifies as a major modification using the procedures in the applicable major NSR program (*i.e.,* the actual-to-projected-actual applicability test). In addition and as discussed in the previous section, if the change does not qualify as a major modification under that test, it is considered a minor modification if the net emissions increase from the actual-to-projected-actual test is equal to or greater than the minor NSR thresholds listed in Table 1 of section IV.A.3 of this preamble. A major source with such a minor modification must apply for and obtain a minor NSR permit prior to commencing construction of the minor modification.

For a physical or operational change at your existing minor source, you will first determine if the change qualifies as a major source by itself (*e.g.,* when a source owner adds one or more large emissions units to his minor source) using the provisions of the applicable major NSR program (*see, e.g.,* 40 CFR 52.21(b)(1)(i)(*c*)). If it is, then the change is subject to the applicable major NSR program.

For modifications at existing minor sources that do not qualify as major sources by themselves, the total increase in allowable emissions resulting from the proposed change at your source, including fugitive emissions to the extent they are quantifiable, only if the source belongs to one of source categories listed pursuant to section 302(j) of the Act, would be the sum of the following:

- For each new emissions unit that is to be added, the emissions increase would be the potential to emit of the unit.
- For each emissions unit with an allowable emissions limit that is to be changed or replaced, the emissions increase would be the allowable emissions of the emissions unit after the change or replacement minus the allowable emissions prior to the change or replacement. However, this may not be a negative value. If the allowable emissions of an emissions unit would be reduced as a result of the change or replacement, use zero in the calculation.
- For each unpermitted emissions unit (*i.e.,* a unit without any enforceable permit conditions) that is to be changed or replaced, the emissions increase would be the allowable emissions of the unit after the change or replacement [16] minus the potential to emit prior to the change or replacement.[17] However, this may not be a negative value. If the allowable emissions of an emissions unit would be reduced as a result of the change or replacement, use zero in the calculation.

If the total increase in allowable emissions resulting from your proposed modification at your minor source causes an increase in allowable emissions for one or more regulated NSR pollutants above the applicable minor NSR threshold (*see* Table 1 in section IV.A.3 of this preamble), the modification is subject to this program. *See* final 40 CFR 49.153(b).

If the total allowable emissions increase from your modification is less than the corresponding minor NSR threshold listed in Table 1, the modification is not subject to this minor NSR rule. Under this scenario, if a permitted allowable emissions limit of one or more emissions units increases, you must apply for an administrative permit revision to amend the allowable

[15] We are requiring minor sources to register within 18 months from the effective date of this rule. *See* section IV.F of this preamble for more details about the registration program.

[16] The minor NSR permit for the modification must include an annual allowable emissions limit for each affected emissions unit per final 40 CFR 49.155(a)(2). The post-change allowable emissions limit can be the uncontrolled potential to emit or can be lower depending on the outcome of the reviewing authority's control technology review as well as any other restrictions that you propose for the emissions unit (*e.g.,* for purposes of NSR applicability).

[17] It is necessary to use potential to emit since these emissions units will not have an allowable emissions limit prior to the change.

emissions limit for that emissions unit(s). *See* section IV.B.5 of this preamble or final 40 CFR 49.153(a)(2) and 49.159(f) for more information on administrative permit revisions.

At proposal, we asked for comments as to whether minor sources in Indian country should be allowed to take credit for concurrent emissions reductions that would result from a proposed modification under the concept commonly known as ''project netting.'' [18]

Several commenters supported our proposal to allow ''project netting'' in the minor NSR program for determining whether a proposed project qualifies as a modification. However, we are not finalizing the ''project netting'' concept at this time to be consistent with our position in the major NSR program (*See* final rule titled: ''Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Aggregation and Project Netting'' January 15, 2009 (74 FR 2376)).

3. What are the minor NSR thresholds?

As proposed, the ''minor NSR thresholds'' in this final rule establish cutoff levels for which sources with emissions lower than the thresholds would typically be exempt from the minor NSR rules (*see* Table 1 and final 40 CFR 49.153).

Various commenters supported the development of thresholds and no comments were received against this concept. However, some commenters wanted us to finalize less [*e.g.,* volatile organic compounds (VOC) and carbon monoxide (CO)] or more stringent thresholds (for minor modifications) while other commenters expressed concern that the source distribution analysis that we used to support the proposed thresholds did not accurately reflect the number of sources currently in existence in Indian country.

TABLE 1—MINOR NSR THRESHOLDS [a]

Regulated NSR pollutant	Minor NSR thresholds for nonattainment areas (tpy)	Minor NSR thresholds for attainment areas (tpy)
Carbon monoxide (CO)	5	10
Nitrogen oxides (NO_X)	5 [b]	10
Sulfur dioxide (SO_2)	5	10
Volatile Organic Compounds (VOC)	2 [b]	5
PM	5	10
PM_{10}	1	5
$PM_{2.5}$	0.6	3
Lead	0.1	0.1
Fluorides	NA	1
Sulfuric acid mist	NA	2
Hydrogen sulfide (H_2S)	NA	2
Total reduced sulfur (including H_2S)	NA	2
Reduced sulfur compounds (including H_2S)	NA	2
Municipal waste combustor emissions	NA	2
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	NA	10

[a] If part of a Tribe's area of Indian country is designated as attainment and another part as nonattainment, the applicable threshold for a proposed source or modification is determined based on the designation where the source would be located. If the source straddles the two areas, the more stringent thresholds apply.

[b] In extreme ozone nonattainment areas, section 182(e)(2) of the Act requires any change at a major source that results in any increase in emissions to be subject to major NSR permitting. In other words, any changes to existing major sources in extreme ozone nonattainment areas are subject to a ''0'' tpy threshold, but that threshold does not apply to minor sources.

After consideration of comments received and further evaluation of the proposed thresholds, we are finalizing the minor NSR thresholds as proposed, except for the NO_X and VOC thresholds in extreme ozone nonattainment areas. We are amending the proposed ''0'' tpy NO_X and VOC thresholds for the minor NSR program in extreme ozone nonattainment areas because we believe that these thresholds, while required under section 182(e)(2) of the Act and appropriate as significance levels for major sources located in extreme ozone nonattainment areas, are not appropriate for minor sources. Therefore, we are finalizing minor NSR thresholds for NO_X and VOC in extreme nonattainment areas as 5 and 2 tpy respectively. We also want to clarify, as one commenter suggested, that the $PM_{2.5}$ threshold applies to direct $PM_{2.5}$ emissions and does not represent the contribution of its precursors (*e.g.,* SO_2 or NO_X).

Furthermore, we continue to believe that the sources with emissions below the thresholds will be inconsequential to attainment or maintenance of the NAAQS because the national source distribution analysis in the proposal (71 FR 48702) applied to the national source distribution at the time (sources inside and outside of Indian country) and not only to estimates of the possible number of existing sources in Indian country. For each pollutant, we found that only around 1 percent (or less) of total emissions would be exempt from review under the minor NSR program. At the same time, the thresholds would promote an effective balance between environmental protection and source burden because anywhere from 42 percent to 76 percent of sources (depending on the pollutant) would be too small to be subject to preconstruction review.

In addition, we believe that such thresholds are included in many of the minor NSR programs in surrounding states, which will allow us to begin leveling the playing field with the surrounding state programs and will result in a more cost-effective program by reducing the burden on sources and reviewing authorities.

These thresholds, however, are neither the most stringent nor the least stringent of the levels found in existing state minor NSR rules since they represent a reasonable balance between environmental protection and economic

[18] As proposed, ''project netting'' means that both increases and decreases in allowable emissions are summed when determining the total emission increase that would result from a proposed modification.

growth. We did not want the thresholds to be so high that they were not environmentally protective or so low that they ensured environmental protection at the cost of discouraging economic growth. Nevertheless, to address any concerns about the stringency of the thresholds, we will evaluate the information we collect as part of the registration provisions for minor sources we are finalizing under this rule (*see* section IV.F of this preamble for more information) and will consider changing the minor NSR thresholds as appropriate.[19]

4. What emissions units and activities at minor sources are exempt from this rule?

Certain emissions units and activities at minor sources either do not emit regulated NSR pollutants to the ambient air or emit these pollutants in negligible amounts. Therefore, under 40 CFR 49.153(c), we are finalizing a list of units and activities at minor sources that are exempt from this rule:

1. Mobile sources;
2. Ventilating units for comfort that do not exhaust air pollutants into the ambient air from any manufacturing of other industrial processes;
3. Noncommercial food preparation;
4. Consumer use of office equipment and products;
5. Janitorial services and consumer use of janitorial products;
6. Internal combustion engines used for landscaping purposes; and
7. Bench scale laboratory activities, except for laboratory fume hoods and vents.

This list we have finalized is an amended list from the exempted units and activities we proposed since we are not exempting air-conditioning units for comfort and heating units for comfort until we can study the implications of the new rules for greenhouse gases (*see* Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, 75 FR 31514) on these units. In addition and also in light of a comment received, we are deleting the last exemption in the proposed list of exemptions (any emissions unit or activity that does not have the potential to emit a regulated NSR pollutant or HAP, so long as that emissions unit or activity is not part of a process unit that emits or has the potential to emit a regulated NSR pollutant or HAP) because we agree with the commenter that argued that this exemption can be confusing and redundant.

Furthermore, we would like to clarify that the list of exemptions included in the proposal's regulatory text included mobile sources, although mobile sources were inadvertently left out of the exempted units and activities discussion in the proposal's preamble. Therefore, we have added mobile sources to the list in this preamble and have decided to keep mobile sources in the list of exempted units and activities in this final rule because we continue to believe that it is not appropriate to include mobile sources in a stationary source permitting program and we did not receive any comments suggesting that mobile sources should be removed from the list of exemptions.

Nevertheless, many commenters noted that state and local agencies often exempt many more types of emissions units and activities and suggested that we should expand the exemptions included in the final minor NSR rule. Some of these commenters also argued that failure to expand the list of exemptions will significantly burden operators of minor sources wishing to locate in Indian country, especially the oil and gas industry and will thereby disadvantage Tribes.

In light of the comments received, we agree that the list of exempted units and activities might need to be expanded. Therefore, we intend to propose and finalize a separate rule to seek public comment on the issue of whether additional units or activities should be exempted from the minor NSR program.

B. Site-Specific Permits

1. What are the requirements for permit applications?

As the owner or operator of a proposed new minor source or a proposed modification that is subject to the rule (see 40 CFR 49.154), you must submit a complete application to the reviewing authority requesting a minor NSR permit specific to your source (unless you are seeking a ''general permit''). In addition to basic information identifying and describing your source, your application must include a list of all affected emissions units. ''Affected emissions units'' are defined as all the emissions units at your proposed new minor source or all the new, modified and replacement emissions units that comprise your proposed modification (excluding the exempt emissions units and activities listed in proposed 40 CFR 49.153(c)).

Your application must also document the increase in emissions of regulated NSR pollutants that will result from your new source or modification so that the reviewing authority can verify that you are subject to this minor NSR program, rather than to major NSR. For each new emissions unit that you list, you must provide the PTE in tpy for each regulated NSR pollutant, along with supporting documentation. For any modified or replacement unit that you list, you must provide the allowable emissions of each regulated NSR pollutant in tpy before and after the modification or replacement, along with supporting documentation. For emissions units that do not have an established allowable emissions level prior to the modification, you must provide the pre-change PTE. For the post-change allowable emissions for these units, you may provide the unrestricted post-change PTE or may propose a lower level of allowable emissions. The allowable emissions for any emissions unit are calculated considering any emissions limitations that are enforceable as a practical matter on the unit's PTE. In calculating these emissions levels for applicability purposes you should include fugitive emissions, to the extent they are quantifiable, only for source categories listed pursuant to section 302(j) of the Act (and as described in sections IV.A.1 and IV.A.2 of this preamble).

Furthermore, you may include in your application proposed emission limitations for the listed emissions units. If you do, you must account for these limitations in your calculations for post-construction PTE and/or allowable emissions.

The application also must identify and describe any existing air pollution control equipment and compliance monitoring devices or activities relevant to the affected emissions units, as well as any existing emissions limitations or work practice requirements to which any affected emissions units are subject.

No commenters expressed concern with the proposed permit application requirements described above except for the concept of PAL.[20] One commenter believed such provisions will not ensure compliance with the statutory mandates applicable to minor NSR programs under section 110(a)(2)(C) of the Act to ensure that NAAQS are attained and maintained. Further, the commenter maintained that such limits would likely be unenforceable as a practical

[19] We might also consider proposing thresholds for greenhouse gases and in accordance with any future rulemakings to address small greenhouse gas sources as outlined in the rule titled: ''Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule'' (75 FR 31514).

[20] A minor source PAL determination is a sourcewide limitation on allowable emissions of a regulated NSR pollutant, expressed in tpy, that is enforceable as a practical matter and we had proposed that you may request that the reviewing authority establish an annual minor source PAL for one or more of the regulated NSR pollutants emitted by your new or existing minor source.

matter at most sources and offered extensive arguments for his position. On the other hand, a couple of commenters expressed support for minor source PALs, with one of these commenters believing that it is very important that aspects of permitting programs at the Federal and state levels outside of Indian country that provide operator flexibility, including the creation of PALs, should also be afforded to operators currently in or wishing to locate in Indian country.

Based on the comments received, we are finalizing the permit application requirements mainly as proposed, with only two exceptions. *See* final 40 CFR 49.154. First, we are not finalizing the minor source PAL provisions at this time because we agree with the opposing commenter that stated, for example, that finalizing the PAL provisions without more specific criteria, including provisions for extensive monitoring, would not be enforceable. Second and as we explained in sections IV.A.1 and IV.A.2, we are finalizing provisions that will require you, the source owner, to include fugitive emissions in the minor NSR applicability determinations, to the extent they are quantifiable, only for those source categories listed pursuant to section 302(j) of the Act.

In addition, we would like to clarify that if your source is in a source category covered by a general permit issued under proposed 40 CFR 49.156, you may apply for the general permit for that source category instead of a site-specific permit. The permit application requirements for a particular general permit will be specified in that general permit. General permits, including the comments we received about them, are discussed further in section IV.C of this preamble.

2. What technical reviews must the reviewing authority conduct?

After determining that your application is complete (*see* section IV.B.4 for more information about this process), the reviewing authority must do 2 types of technical reviews—a control technology review and a review of the probable impact on air quality of the proposed new source or modification. These reviews are discussed further in the following subsections.

a. Control Technology Review

As required under section 110(a)(2)(C) of the Act, this minor NSR permitting program for Indian country is primarily designed to assure that the NAAQS are achieved and to prohibit any minor source from emitting any air pollutant in amounts that would contribute to nonattainment or interfere with maintenance of the NAAQS. Therefore, with this single program applicable to all areas of Indian country where there is no EPA-approved implementation plan, we are trying to ensure the NAAQS protection required by the CAA, while still allowing sufficient flexibility in control technology requirements for minor sources located in Indian country. By control technology, we mean pollution prevention techniques; add-on pollution control equipment; design and equipment specifications; work practices and operational restrictions.

For this review, the reviewing authority will consider local air quality needs, typical control technology used by similar sources in surrounding areas, anticipated economic growth in the area and cost-effective control alternatives. At a minimum, the reviewing authority must require control technology that assures that the NAAQS are achieved and that each affected emissions unit will comply with all requirements of 40 CFR parts 60, 61 and 63 that apply. The required control technology resulting from such a review may range from no control technology, to control technology that is less stringent than the reasonably available control technology (RACT) level of control (which is typically required for existing major sources in nonattainment areas), to technology that is the BACT level of control (which is the level required for new major sources and major modifications in attainment areas). The control technology chosen would depend on the air quality needs of the area, other applicable regulatory programs of the Act and technical and economic feasibility.

Furthermore and based on the results of the control technology review, the emission limitations required by the reviewing authority may consist of numerical limits on the quantity, rate or concentration of emissions; pollution prevention techniques; design standards; equipment standards; work practice standards; operational standards or any combination thereof. If it is technically and economically feasible, the reviewing authority must require a numerical limit on the quantity, rate or concentration of emissions for each affected emissions unit at your source.

For a new minor source that is subject to this rule, the case-by-case control technology review would be conducted for all emissions units (except the exempt emissions units and activities discussed in section IV.A.4 and listed in the final 40 CFR 49.153(c)) that emit or have the potential to emit the pollutant(s) for which the source is subject to this rule. For a modification, such control technology review would apply only to the affected emissions unit(s) at your source.

At proposal, we sought comment on the proposed case-by-case control technology review for all new and modified sources subject to this minor NSR program. Therefore, we sought comment on whether a control technology requirement is necessary to achieve the purposes of the Act or whether other approaches can achieve these purposes just as well with less cost and administrative burden.

Several commenters supported the case-by-case control technology review. These commenters believed that a case-by-case control technology review would allow and promote economic growth and development that is tailored to the needs in Indian country, while one of these commenters added that having no capacity to impose controls on minor sources would seem to defeat the purpose of a permitting process for such facilities because a paper permit that could not impose any controls adds nothing to existing regulation or protection of public health and the environment. Furthermore, several commenters supported a clearly defined, standardized method for determining the required level of control, while one commenter stated that a system that requires a single set of controls for all minor sources across Indian country does not provide the needed flexibility to adapt regulation to the needs of individual areas of Indian country or to take into account the benefit of a level playing field with the surrounding areas.

On the other hand, other commenters opposed any control technology requirement. These commenters believed that a Federal program is likely to be applied inconsistently, resulting in a competitive disadvantage for sources located in certain areas; EPA has no authority to impose a control technology requirement under section 110(A)(2)(C) of the Act and a separate control technology review process under minor NSR is unnecessary when the threat of PSD review will otherwise accomplish the ultimate objective—protection of air resources (*i.e.,* the PSD review is generally so complex, time-consuming and expensive, that most sources will design their projects to remain below the applicable PSD thresholds, even if that means installing more efficient controls, switching to cleaner fuel or restricting production or operating hours).

We disagree with commenters that oppose any control technology requirement or who suggested that we have no authority to require such controls. Section 110(a)(2)(c) requires us to assure that the NAAQS are achieved and we believe that requiring control technologies when necessary will ensure the NAAQS are protected as established in this section. Furthermore, section 110(a)(2)(c) does not preclude us from requiring additional provisions that will further the goal of NAAQS protection and the fact that the statutory language requires a control technology review under some statutory provisions does not mean that the statute prohibits EPA from requiring it under other provisions.

We also disagree with those commenters that would like us to implement consistent control technologies across the nation. As we stated in the proposal, it would be impossible to create a single program that creates precisely equivalent regulations among all areas of Indian country. We wish to ensure that Indian country is not seen as a potential ''pollution haven'' where minor sources can go to escape air pollution control requirements and we also do not want to put Tribes or owners and operators locating in Indian country at a competitive disadvantage by requiring substantially more stringent controls in a particular area of Indian country than are required in the surrounding areas. Therefore, a case-by-case control technology review provides the reviewing authority with the flexibility to create requirements that protect public health and environment, but also takes into consideration the needs of the area in question based on its current air quality situation, the potential air quality impacts from the growth associated with the source and the technological and economic feasibility of the control technology as well as the control technologies in use in the surrounding states.

Therefore, we are finalizing the case-by-case control technology review requirements as proposed. The final rules require your reviewing authority to perform a control technology review on a case-by-case basis when issuing a site-specific minor NSR permit. *See* the final 40 CFR 49.154(c). For general permits, the control technology review will be performed at the time when the general permit is developed. More details on general permits are provided in section IV.C of this preamble.

b. Air Quality Impacts Analysis (AQIA)

If your reviewing authority has reason to be concerned that the construction of your minor source or modification could cause or contribute to a NAAQS or PSD increment violation, your reviewing authority may require you to conduct an AQIA using dispersion modeling in accordance with 40 CFR part 51, Appendix W, to determine the impacts that will result from your new source or modification. If the AQIA demonstrates that the construction of your source or modification would cause or contribute to a NAAQS or PSD increment violation, you would be required to further reduce its impact before you could obtain a permit.

Various commenters supported requiring an AQIA and added that they would like us to develop guidance on when and how an AQIA analysis should be performed. On the other hand, several commenters believed that AQIAs would be excessive, very costly and time consuming for small businesses.

Based on the comments received, we are finalizing the AQIA provisions as proposed at 40 CFR 49.154(d). We continue to believe that allowing reviewing authority discretion for when an AQIA might be required ensures that construction of new minor sources or modifications at existing minor sources do not cause or contribute to a NAAQS or PSD increment violation when needed, but limits overburdening all minor sources in Indian country with these types of air quality analysis. Nevertheless, to aid the reviewing authorities in the determination of when an AQIA might be needed for minor NSR sources in Indian country and to address the commenters' suggestions, we intend to develop guidance on the scope of the AQIA that will consider the suggestions presented by these commenters. We are also eliminating the language in the proposal preamble that stated (71 FR 48704) that AQIAs will be required ''[i]n rare instances.'' Since the reviewing authority has the discretion to require an AQIA, it is difficult to predict that such AQIAs will be required only in rare instances.

3. What are the permit content requirements?

The requirements for permits issued pursuant to site-specific preconstruction review include the following (*see* 40 CFR 49.155):

- The effective date of the permit and the date by which you must commence construction on your approved project in order for your permit to remain valid (*i.e.,* 18 months after the permit effective date).
- The emissions units subject to the permit and their associated emissions limitations.
- Monitoring, recordkeeping, reporting and testing requirements to assure compliance with the emission limitations.

In addition, the permit should include a number of standard permit terms. These include emission limitations, monitoring recordkeeping and reporting requirements as well as terms such as a severability clause (to ensure the continued validity of the other portions of the permit in the event of a challenge to a portion of the permit), a requirement to comply with all conditions of the permit, a requirement that the permitted source does not cause or contribute to a NAAQS violation and inspection and entry provisions requiring that you allow representatives of the reviewing authority to enter and inspect your source.

a. Emissions Limitations

Your permit must include 2 types of emission limitations:

- The emissions limitations for each affected emissions unit determined by the reviewing authority based on the case-by-case technology review discussed previously in section IV.B.2 of this preamble.
- Limits on annual allowable emissions in tpy.

Emission limitation, as defined in 40 CFR 49.152, means a requirement established by the reviewing authority that limits the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emissions reduction and any design standard, equipment standard, work practice, operational standard or pollution prevention technique. Allowable emissions (also as defined under 40 CFR 49.152) means ''allowable emissions'' as defined in 40 CFR 52.21(b)(16), except that the allowable emissions for any emissions unit are calculated considering any emissions limitations that are enforceable as a practical matter on the emissions units' potential to emit. Once established in the permit, annual allowable emissions become the basis for determining whether a later change at your source will result in an increase in allowable emissions subject to permitting under this program.

We did not specifically receive comments on these two types of emissions limitations that must be included in your permit. Therefore we are finalizing these emissions limitations at 40 CFR 49.155(a)(2) as proposed.

Additionally, we would like to clarify, as some commenters requested, a couple

of terms or conditions. One commenter interpreted the proposal to only require annual emissions limits in the minor source permits, while one commenter asked us to clarify if the term ''on a continuous basis'' in the definition of emissions limitation implies that every emission limitation must be complied with on an instantaneous time period and accompanied by a continuous emission monitoring system (CEMS).

Therefore, we want to clarify that the reviewing authority may not only require annual emissions limits in the minor NSR permits, but also short-term limits as necessary. Short-term emission limits may also be required as part of any enforceable emission limitation and, if applicable, depending on the relevant ambient air quality standard associated with the regulated pollutant.

Furthermore, the term ''on a continuous basis'' in the definition of emission limitation does not imply that every emission limitation must be complied with on an instantaneous time period and accompanied by a CEMS. The term ''on a continuous basis,'' as the commenter suggests, means that the limitation applies ''at all times,'' but not that the emission limitation has to be accompanied by a CEMS. There are various ways to monitor compliance with limitations that apply on a continuous basis as we mention in the next section.

b. Monitoring, Recordkeeping and Reporting

The monitoring, recordkeeping and reporting requirements have been finalized under 40 CFR 49.155. Specifically, the final monitoring requirements are under 40 CFR 49.155(a)(3), the final recordkeeping requirements under 49.155(a)(4) and the final reporting requirements under 40 CFR 49.155(a)(5).

(1) Monitoring requirements. The permit must include monitoring requirements sufficient to assure compliance with any emissions limitations contained in the permit. Monitoring approaches may include CEMS, predictive emissions monitoring systems (PEMS), continuous parameter monitoring systems (CPMS), periodic manual logging of monitor readings, equipment inspections, mass balances, periodic performance tests and/or emission factors, as appropriate for your minor source based on the types of emissions units, magnitude of emissions and air quality considerations. Such monitoring shall assure use of terms, test methods, units and averaging periods consistent with the control technology and emission limitations required for your source.

(2) Recordkeeping requirements. The permit must include recordkeeping requirements sufficient to assure compliance with the enforceable emission limitations in your permit. Records of required monitoring information must include all calculations using emissions factors, all stack tests or sampling information including date and time of test or sampling, the name of the company or entity that performed the analyses, the analytical techniques or methods used, the results of such analyses and the operating conditions existing at the time of sampling or measurement. All such records including support information must be retained for 5 years from the date of the record. Support information may include all calibration and maintenance records and all original strip-chart recordings or electronic records for continuous monitoring instrumentation.

(3) Reporting requirements. You must provide annual monitoring reports showing whether you have complied with your permit emission limitations. You also must provide prompt reports of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations and any corrective actions or preventive measures taken. Within a permit, the reviewing authority must define ''prompt'' in relation to the degree and type of deviation likely to occur.

We did not receive any specific comments regarding the monitoring and recordkeeping requirements, but several commenters commented on the reporting requirements. Some of these commenters specifically asserted that requiring annual monitoring reports for minor sources is overly burdensome, while another commenter would like us to require monitoring reports to be submitted at least annually, to give the reviewing authority flexibility to require semiannual monitoring reports and in accordance with the title V reporting schedule. Other commenters recommended that for reporting deviations the word ''prompt'' should be defined within the regulation.

We disagree with those commenters that state that the monitoring, recordkeeping and reporting requirements are too burdensome because, as stated in the proposal, sections 110(a)(2)(A) and 110(a)(2)(C) of the Act require that a preconstruction permitting program provide for the enforcement of measures that include ''enforceable emission limitations and other control measures, means or techniques * * * as well as schedules and time-tables for compliance.'' In addition, section 110(a)(2)(F) requires that a permitting program may require ''the installation, maintenance and replacement of equipment and the implementation of other necessary steps by owners and operators of stationary sources to monitor emissions from such sources,'' as well as periodic reports on the nature and amounts of emissions and emissions-related data from such sources. Therefore, we believe that, for example, annual reporting requirements will ensure that sources are complying with their annual emissions limits as well as any other limits determined by the reviewing authority.

However, we do not believe that requiring monitoring reports more frequently than annually, as one commenter suggested, would be appropriate for minor sources. Minor sources are typically much smaller than the title V sources the commenter is referring to and therefore requiring monitoring reports more frequently than annually might be overly burdensome for these sources. However, we encourage reviewing authorities to develop annual monitoring schedules in accordance with title V permit monitoring schedules if that facilitates the reporting of emissions to the reviewing authority.

We also disagree with the commenters that would like us to define the word ''prompt'' for the reporting of deviations. We continue to believe that deferring the definition of this term to the reviewing authority is more appropriate to ensure that the respective permits are protective of the NAAQS while also ensuring that the particular needs of the area where the source is being permitted are considered. For example, if a source is locating in a particular area of Indian country, the reviewing authority might define this term by considering the provisions of the state and/or the air quality control districts surrounding the area of Indian country where the source is locating as well as technical and economical feasibility. Therefore, we are finalizing the monitoring, recordkeeping and reporting requirements as proposed and these requirements will be included in each permit as necessary to assure compliance with the source's emission limitations.

c. Other Permit Content Requirements

Under 40 CFR 49.155(a)(7), we have finalized other permit requirements. Specifically, these requirements include inspection and entry provisions under 40 CFR 49.155(a)(7)(vii) that state that upon presentation of proper credentials, you, as the permittee, must allow a

representative of the reviewing authority to:

- Enter upon your premises where a source is located or emissions-related activity is conducted or where records are required to be kept under the conditions of the permit;
- Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;
- Inspect, during normal business hours or while the source is in operation, any facilities, equipment (including monitoring and air pollution control equipment), practices or operations regulated or required under the permit;
- Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements; and
- Record any inspection by use of written, electronic, magnetic and photographic media.

Commenters on these requirements wanted us to clarify that as the reviewing authority representative enters the source premises for any inspection, the reviewing authority ''must comply with the safety requirements of the permittee.'' Upon further evaluation of these provisions, we do believe that the representative of the reviewing authority should follow standard safety requirements identical to the ones that apply to the permittee's employees.

4. What are the permit issuance procedures, permit term and public participation requirements?

a. Permit Issuance Process

Under 40 CFR 49.154(b), we have finalized definite timelines for the overall minor source permit issuance process that vary depending on the type of source being regulated under the minor NSR program. The timelines are described as follows:

- For minor sources seeking a site-specific permit, the permit issuance process timeline includes a period of 45 days for the application completeness review as well as a 30-day public comment period. Any site-specific permit will be granted or denied no later than 135 days after the date the application is deemed complete and all additional information necessary to make an informed decision has been provided.
- For minor modifications at major sources seeking coverage under a site-specific permit, the permit issuance process timeline includes a period of 60 days for the application completeness review as well as a 30-day public comment period. Any site-specific permit will be granted or denied no later than 1 year after the date the application is deemed complete and all additional information necessary to make an informed decision has been provided.
- For minor sources seeking coverage under a general permit (discussed in section IV.C of this preamble and under 40 CFR 49.156), the permit issuance process timeline includes a completeness review period of 45 days. Any request for coverage by individual sources under a general permit will be granted or denied within 90 days of the receipt of such request for coverage by the reviewing authority. We believe that since the general permit requirements have been subject to public notice when the general permit was developed, a shorter permit issuance process is warranted for determining whether a source is eligible for coverage under the general permit.
- For synthetic minor sources (discussed in section IV.D of this preamble and under 40 CFR 49.158), the permit issuance process timeline includes, as proposed, a period of 60 days for the application completeness review as well as a 30-day public comment period. Any synthetic minor permit will be granted or denied no later than 1 year after the date the application is deemed complete and all additional information necessary to make an informed decision has been provided.

The application for a permit under this program will be reviewed by the reviewing authority within 45 days of its receipt for site-specific permits (60 days from its receipt for synthetic minor permits and minor modification at major sources) to determine whether the application contains all the information necessary for processing the application. If the reviewing authority determines that the application is not complete, it will request additional information as necessary to process the application. If the reviewing authority determines that the application is complete, it will notify you in writing. The reviewing authority's completeness determination or request for additional information should be postmarked within 45 days of receipt of the permit application by the reviewing authority for site-specific permits (60 days of receipt of the permit application by the reviewing authority for synthetic minor permits and minor modifications at major sources). If you do not receive a request for additional information or a notice of complete application postmarked within 45 days of receipt of the permit application by the reviewing authority for site-specific permits (60 days for synthetic minor permits and minor modification at major sources), your application will be deemed complete. Once the application is complete, your reviewing authority will develop a draft permit and provide public notice seeking comments on the draft permit for a 30-day period. After considering all timely, relevant comments, if your reviewing authority determines that your new source or modification meets all applicable requirements, it will issue you a final permit. Otherwise, the reviewing authority will send you a letter denying your permit application with reasons for the denial.

We decided to finalize a definite timeline for the overall minor source permit issuance process that varies depending on the type of source being regulated under the minor NSR program because we agree with those commenters who believed that this timeline will provide regulatory certainty for the regulated community and the public, as well as time for the regulated community and the reviewing authority to plan for the permit issuance process. Specifically, commenters believed that the proposed permit issuance process was too lengthy and/or too uncertain for minor sources. They argued that state minor NSR programs are bound by shorter and more definite time lines. In addition, a few commenters believed that the proposed language could allow a permit application to be held without a final decision for an unreasonable period, resulting in serious financial burden, lost business opportunities, a delay in the project and even cancellation of the project.

Furthermore, we have amended our proposed completeness review procedures, as suggested by some commenters and we will no longer require that if the source has not received a notice of completeness or a request for additional information in 50 days, that the application would be deemed complete. We agree with those commenters that expressed concerns that this provision can be confusing. Therefore and as we stated previously, if you do not receive a request for additional information or a notice of complete application postmarked within 45 days of receipt of the permit application by the reviewing authority for site-specific permits (60 days for synthetic minor permits and minor modification at major sources), your application will be deemed complete. The permit issuance procedures for general permits are discussed in section IV.C.5 of this preamble.

b. Permit Term

Under 40 CFR 49.155(b), we have finalized provisions that state that your permit remains valid as long as you commence construction on your project within 18 months after the effective date of the permit, you do not discontinue construction for a period of 18 months or more and you complete construction in a reasonable time. The reviewing authority may extend the 18-month period where justified and that 18-month limit does not apply to the time period between construction of approved phases of a phased construction program. In those cases, you must commence construction of each such phase within 18 months of the approved commencement date for that phase.

We received only one comment about the permit term provisions. This commenter had concerns about the proposal preamble language that stated that: ''a preconstruction permit does not expire.'' Specifically, this commenter stated that it may be appropriate to specify that the permit does expire after a specified period, subject to renewal for a specified period upon showing of diligence by the source. If a preconstruction permit does not expire, the commenter argues that the permit term provisions may be administratively impractical to implement.

Upon further review of these provisions, we have noticed that the language we used in the proposal preamble was not consistent with the provisions we proposed under 40 CFR 49.155(b). Under 40 CFR 49.155(b), we proposed provisions for when permits become invalid and did not state that ''a preconstruction permit does not expire.'' Therefore, we have eliminated the proposal preamble language that stated that permits do not expire and we are finalizing the proposed provisions as stated under 40 CFR 49.155(b).

In addition, we would like to clarify that permits under this program would not be revoked at the source's request when there is a rapid decrease in production, as a few commenters recommended. In such a case, the limits of these permits might be revised appropriately to account for the reduction, but the permit would not be revoked. Permits will be revoked only if the source officially shuts down its operation and notifies the reviewing authority about the business closure.

c. Public Participation Requirements

We have finalized our public participation requirements under 40 CFR 49.157 for site-specific permits, minor modification at major sources, synthetic minor sources and the initial development of a general permit for a source category. Pursuant to these requirements, the reviewing authority is required to prepare a draft permit and provide adequate public notice to ensure that the affected community and the general public have reasonable access to the application and draft permit information. The reviewing authority must make such information available for public inspection at the appropriate EPA Regional Office and in at least one location in the area affected by the source, such as the Tribal environmental office or a local library. The public notice must provide an opportunity for public comment and a public hearing on the draft permit. The appropriate types of notice may vary depending on the proposed project and the area of Indian country that would be affected.

In all cases, the reviewing authority must mail a copy of the notice to you (the permit applicant); the appropriate Indian governing body and the Tribal, state and local air pollution authorities having jurisdiction adjacent to the area of Indian country potentially impacted by the air pollution source. In addition, the reviewing authority may elect to provide public notice for a given situation as appropriate and depending on such factors as the nature and size of your source, local air quality considerations and the characteristics of the population in the affected area. The optional methods of notifying the public include the following:

- Mailing or e-mailing a copy of the notice to persons on a mailing list developed by the reviewing authority consisting of those persons who have requested to be placed on such a mailing list.
- Posting the notice on its Web site.
- Publishing the notice in a newspaper of general circulation in the area affected by the source. Where possible, the notice may also be published in a Tribal newspaper or newsletter.
- Providing copies of the public notice for posting at locations in the area affected by your source. We expect that such locations might include post offices, libraries, Tribal environmental offices, community centers and other gathering places in the community.
- Other appropriate means of notification.

Furthermore, the reviewing authority must provide for a 30-day public comment period on the draft permit. After considering all relevant public comments, the reviewing authority will make a final decision to issue or deny your permit. The public (including you, the permit applicant) will have an opportunity to appeal the final decision under 40 CFR 49.159. Final permit issuance and the opportunity for appeal are discussed further in the next section of this preamble.

Several commenters supported the proposed public participation requirements stating that they like the proposed mix of mandatory and optional approaches to notices, while others suggested that the overall permitting process should be shortened. On the other hand, other commenters argued that the proposed public participation requirements were too burdensome, time consuming and will be open to abuse by persons who oppose any sort of development including development from very small projects. Therefore, some of these opposing commenters suggested adding a *de minimis* threshold below which sources would be exempt from the public notice and participation requirements in order to match the level of public participation to the environmental significance of the project. In addition, one commenter believed that we should strengthen the proposed public participation requirements by requiring notices to be sent by mail or e-mail to all persons requesting such notice, by requiring notices to be published in a Tribal newspaper or newsletter and by requiring other means of publication customary to the Tribe, where possible. They also wanted us to hold a public hearing whenever one is requested.

After careful consideration of these comments, we are finalizing our public participation requirements for site-specific permits, minor modifications at major sources, synthetic minor permits and the initial development of a general permit for a source category as proposed, with the clarification that the appropriate types of notice will take into consideration any seasonal activities that may conflict with the public participation of the local community (*e.g.,* subsistence hunting and fishing or other seasonal cultural practices). We believe these requirements are consistent with the current public availability of information requirements under our existing regulations at 40 CFR 51.161 and they add optional public noticing and participation provisions that will enhance the permitting process. All the requirements will ensure that the public is informed about the permitting actions occurring in Indian country and will also ensure that the particular public noticing needs in Indian country are considered.

We are not matching the public participation requirements to the environmental significance of the project, as some commenters suggested, because we believe that the public has the right to know about any permitting actions occurring in their area notwithstanding the environmental significance of the project and that a 30-day public comment period on a permitting action, as in our existing regulations, is an appropriate timeline for this purpose.

In addition, we do not believe that our public participation requirements need to be strengthened at this time, as some commenters suggested, because we used the existing regulations under 40 CFR 51.161 as the basis for our public noticing requirements and added additional optional provisions to ensure that factors such as the nature and size of the source, the local air quality and the characteristics of the population in the area are considered. Therefore, we believe that these requirements are more detailed than the requirements in our existing regulations under 40 CFR 51.161 and do not need to be strengthened even further at this time.

We also continue to believe that, as proposed, the reviewing authority should be able to hold a public hearing at its own discretion. We believe that the reviewing authority is in the best position to determine whether there is significant interest in a hearing on a case-by-case basis and to decide whether it is more administrative and economically prudent to ask a small number of commenters to submit their comments in writing.

To address any concerns about the length of the entire permit issuance process, we are finalizing definite timelines for the overall permitting process depending on the source type. *See* section IV.B.4.a of this preamble for more details about the permit issuance process timeline.

5. What are the provisions for final action on a permit, permit reopenings, administrative permit revisions and administrative and judicial review procedures?

In general, these provisions are based closely on selected provisions of part 124, subpart A. The specific provisions are as follows:

a. Final Action on a Permit

Under 40 CFR 49.159(a), we have finalized provisions regarding how final action on a permit will occur. Specifically we state that after a decision to issue or deny your permit, the reviewing authority must notify you, the permit applicant, of the decision in writing and, if the permit is denied, provide the reasons for the denial and the procedures for appeal. If the reviewing authority issues a final permit to you, the reviewing authority must provide adequate public notice of the final permit decision to ensure that the affected community, general public and any individuals who commented on the draft permit have reasonable access to the decision and supporting materials.

Furthermore, under 40 CFR 49.159(b) we have finalized provisions regarding how long the reviewing authority will retain permit-related records and under 40 CFR 49.159(c) the requirements on what must be in that record. For example, the records must be kept by the reviewing authority for not less than 5 years. The administrative record must include the application and any supporting data furnished by the applicant and all comments received during the public comment period, including any extension or reopening.

A few commenters supported the proposed provisions for providing notice of final permit actions, which included making a copy of the final permit available at all of the locations where the draft permit was made available. These commenters believed that such notice should be provided in the same manner that it was provided during the public comment on the draft permit and not depend, as we proposed, ''upon the circumstances of your permit''.

On the other hand, a few commenters indicated that the proposed notification requirements are excessive. They believed that the proposed requirements are more stringent than the requirements for major sources under the PSD program and/or the part 71 program, which they believed is unwarranted because the impact for minor sources on public health and/or the environment would be much lower than major sources. Furthermore, some of these commenters argued that EPA may find the proposed requirements burdensome and expensive unless the method of notice is limited to something such as publication on EPA's Web site.

Based on the comments received, we agree that, for site-specific permits, making a copy of the permit available at all of the locations where the draft permit was made available might be too burdensome for the reviewing authorities. Accordingly, we are amending 40 CFR 49.159(a) to require copy of the final permit decision to be made available at all of the locations where the draft permit was made available for synthetic minor sources and minor modifications at major sources, but we are requiring the reviewing authority to only elect one or more of the methods for public noticing under 40 CFR 49.157(b)(1)(ii) for site-specific permits. As proposed, sources are required to post, prominently, a copy of the letter granting the request for coverage under the general permit at the site where the source is locating. More details about the general permit provisions are provided in section IV.C of this preamble.

Regarding the administrative record for a permit decision, several commenters commented on how long the reviewing authority should retain permit-related records. These commenters agreed with the provision of keeping records for not less than 5 years, while one commenter specifically asked us to require the reviewing authority to retain permit records for the life of the source. We believe that keeping permit records for the life of the source will be too burdensome, especially when we do not require permit records for major sources under some provisions of the major NSR program to be kept for more than 5 years either. Therefore, we have finalized, as proposed and under 40 CFR 49.159(b), that the reviewing authority must retain permit-related records for not less than 5 years.

No comments were received on what must be kept on the administrative record and thus, we have also finalized these provisions, under 40 CFR 49.159(c), as proposed.

b. Permit Reopenings

Under 40 CFR 49.159(e) we have finalized provisions regarding when your permit can be reopened. These provisions state that the reviewing authority may reopen a final, currently-in-effect permit for cause on its own initiative, such as if the permit contains a material mistake or fails to assure compliance with applicable requirements. However, except for those permit reopenings that do not increase the emissions limitations in the permit, such as permit reopenings that correct typographical errors, all other permit reopenings shall be carried out after the opportunity for public notice and comment and in accordance with one or more of the public participation requirements under 40 CFR 49.157(b)(1)(ii).

These final provisions amend the proposed provisions, which stated, among other requirements, that any person (including the permittee) may petition the reviewing authority to reopen a permit for cause, based on the comments we received. Commenters were concerned about allowing anyone—regardless of motive or lack of

factual support—to petition to reopen permits issued to sources of insignificant emissions. Furthermore, they argued that the proposed provisions were more stringent than the reopening provisions in the major source permitting programs, which they contend is unwarranted for minor sources and that these provisions are inconsistent with state minor NSR programs.

We agree, as some commenters suggested, that the provisions we proposed might open potential avenues for any person, even if uninformed or maliciously intentioned, to harass and disrupt permitting operations. In addition, we did not intend to excessively restrict the reasons for why a permit should be reopened by us, as the reviewing authority, by stating in the proposal that the reviewing authority may not reopen a permit for a cause unless it contains a material mistake or fails to assure compliance with the applicable requirements. We do agree that the reasons for reopening the permit by the reviewing authority should not be limited to the permit containing a material mistake or failing to assure compliance with applicable requirements. Therefore and as stated previously, we have amended the proposed provisions by adopting the language finalized at 40 CFR 49.159(e).

c. Administrative Permit Revisions

Under 40 CFR 49.159(f), we have finalized provisions to allow for minor changes in the permit without these changes being subject to the permit application, issuance, public participation or administrative and judicial review requirements of the program. For example, an administrative permit revision is a permit revision that could make a change such as: (1) Correcting a typographical error, (2) requiring more frequent monitoring or reporting by the permittee or (3) identifying a change in the name, address or phone number of any person identified in the permit. However, proposed physical or operational changes that could not be implemented within the requirements of an existing permit would necessitate a permit revision, even if they are not otherwise subject to major or minor NSR. (*See* final 40 CFR 49.159(f) for more information on the provisions that govern administrative permit revisions). A few commenters supported our proposed administrative permit revision provisions [21] because they believed that these provisions will allow a source to make minor changes without being subject to the overall permit process, while one commenter specifically opposed the provision to allow increases in allowable emission limits through an administrative permit revision since the commenter believed. According to the commenter, increases in allowable emission rates must be subject to NSR permitting, review of impacts on air quality and public notice and review.

We agree with those commenters that support the administrative permit revision provisions for the situations outlined in the proposal and hence we are finalizing these provisions as proposed at 40 CFR 49.159(f). We believe that permit changes involving typographical errors, more frequent monitoring and reporting requirements and/or changes in ownership should not go through the overall permitting process.

We understand, however and as the opposing commenter suggested, that there might be particular concerns with the provision at 40 CFR 49.159(f)(v) where an administrative permit revision is allowed for an increase in an emissions unit's annual allowable emissions limit for a regulated NSR pollutant, when the action that necessitates such increase is not otherwise subject to review under major NSR or under this program. For example, this case could be one where a source introduces a new coating to a process line that will increase the emissions of that unit but the emissions increases from the source will not trigger the minor NSR requirements.

Although this type of change does not trigger the major or the minor NSR thresholds, we continue to believe that we need to account for these changes in emissions in the permit to know the source's current allowable emissions and to ensure that the source is complying with the applicable requirements. Therefore, an administrative permit revision can be used when the increase in an unit's allowable emissions limit for a regulated NSR pollutant is not subject to major or minor NSR.

d. Administrative and Judicial Review Procedures

At 40 CFR 49.159(d), we have finalized the provisions under which permit decisions may be appealed. Permit decisions may be appealed to the Environmental Appeals Board (EAB) within 30 days after a final permit decision has been issued and a final permit typically will not become effective until 30 days after the service of notice of the final permit decision. Upon filing a petition for review, the permit would be stayed (*i.e.,* not go into effect) until the EAB decides whether to review any condition of the permit and the reviewing authority takes any action required by the EAB. When the EAB has issued its final order on an appeal, a motion to reconsider the final order may be filed with the EAB within 10 days. Only after all the administrative remedies under proposed 40 CFR 49.159 have been exhausted could the person(s) filing the petition seek review in the Federal Court of Appeals with jurisdiction over the area of Indian country in which the source is located. We proposed and took comment on two options for reviewing final permit decisions by reviewing authorities under 40 CFR 49.159(d). The option described above or Option 1 (where review of minor NSR permits will be similar to review of major PSD permits issued under 40 CFR 52.21 and which occurs in accordance with EPA's permitting regulations at 40 CFR part 124) and an alternative Option 2, where the reviewing authority's initial permit could be appealed directly to the appropriate Federal Court of Appeals without a requirement to appeal to the EAB first.

Several commenters supported Option 1 because they believed that the EAB has greater environmental expertise and is likely to resolve issues more quickly. These commenters also argued that citizen appeals to the EAB represent an easier threshold to meet for the layperson that is aggrieved by a final agency action. They believed it is easier for most citizens to write a letter to the EAB requesting an appeal than it is to hire an attorney to sue a governmental agency.

Supporting commenters also argued that it makes more sense to delay the effective date of the permit while the issues are being resolved (rather than allowing the source to begin construction), while some of these supporting commenters would like us to allow the permit to become effective immediately upon issuance unless a later date is specified. These latter commenters believed this option will allow for development in Indian country while encouraging participation from environmental experts should an appeal occur.

Other commenters opposed Option 1. These commenters stated that delaying final permit effectiveness for 30 days after issuance will compound an already lengthy permitting process. They also argued that these provisions are not consistent with the process that most states follow with their minor NSR programs and that these provisions are

[21] *See* 71 FR 48743 for more information on the proposed list of administrative permit revisions.

ripe for abuse and would encourage challenges from anti-development stakeholders.

On the other hand, several commenters specifically endorsed Option 2 because it allows the source to determine whether to commence construction at its own risk. Some of these commenters also noted that this option is more consistent with most state minor NSR programs and it eliminates an intermediate step, the EAB review. These commenters also argued that Option 2 is more appropriate due to the size and amount of emissions from minor NSR sources and it expedites the permitting process. Another commenter added that for Tribes that have or will be seeking, delegation of the NSR program, the rule should allow for Tribal administrative and Tribal court review prior to going to Federal court.

Based on the comments received, we agree with those commenters that support the option of filing a petition for permit review through the Environmental Appeals Board. We believe, as some commenters stated, that the EAB has greater environmental expertise, is likely to solve issues more quickly and it will be easier for the public to file a petition through the EAB than to hire an attorney to go through the appeals process.

However, we are not allowing permits to become effective immediately upon the service of notice of the final permit decision under the EAB option, as some commenters suggested, because the proposed provisions are based upon the EAB regulations under 40 CFR 124.15 and we did not propose to allow a different approach under this rule. The EAB regulations clearly state, under 40 CFR section 124.15(b), that a final permit decision shall become effective 30 days after the service of notice of the decision unless: (1) A later effective date is specified in the decision; (2) a review is requested on the permit under 40 CFR 124.19 or (3) no comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance. In other words, EPA regulations specify that the only permits that become effective upon issuance are those for which no comments were submitted. Furthermore, we do not believe we can allow sources to construct while the EAB process is pending, because while a permit is being reviewed by the EAB, it is not effective and thus it does not authorize construction.

Regarding the commenter that stated that delegated programs should allow for Tribal administrative and Tribal court review prior to going to Federal court, we disagree. This is because under a delegated Federal program, the delegated Indian Tribe would be assisting EPA with the administration of Federal requirements on EPA's behalf and under these Federal regulations. Any Federal requirement administered by a delegated Tribe and any permit issued by such a delegated Tribe would remain Federal actions subject to EPA enforcement and EPA appeal procedures under Federal law. On the other hand, if a Tribe develops and EPA approves a TIP that includes a NSR program, Tribally-issued NSR permits would be subject to administrative and judicial review under the applicable Tribal program as approved by EPA. Therefore, we are finalizing the administrative and judicial review procedures for Option 1 as proposed at 40 CFR 49.159(d).

C. General Permits

1. What is a ''General Permit?''

A ''general permit'' is a preconstruction permit that may be applied to a number of similar emissions units or minor sources. The purpose of a general permit is to simplify the permit issuance process for similar facilities so that a reviewing authority's limited resources need not be expended for site-specific permit development for such facilities. A general permit may be written to address a single emissions unit, a group of the same type of emissions units or an entire minor source. We believe that general permits offer a cost-effective means of issuing permits and provide a quicker and simpler alternative mechanism for permitting minor sources than the site-specific permitting process discussed previously.

We received strong support for the development of general permits. These commenters believed that the development of general permits for sources of similar operation and emissions will simplify the permit issuance process. On the other hand, one commenter urged EPA to issue guidance for particular source categories, rather than use general permits to streamline permitting. The commenter believed that developing guidance documents is a better method.

We agree with those commenters who supported the development of general permits because we believe, as some commenters suggested, that general permits will simplify the permit issuance process, avoid the need for case-by-case control technology review for those source categories/units for which the general permit was established and reduce the administrative burden of the reviewing authorities. However, we disagree with the commenter that preferred guidance rather than general permits for the minor NSR program in Indian country. We understand that general permits are not appropriate in all circumstances, but we believe it is appropriate to develop general permits for certain source categories/units, especially for those source categories/units for which the control technology or technologies available are fairly standard. Therefore, we are finalizing the option of developing general permits as proposed under 40 CFR 49.156.

In addition, upon consideration of other alternatives to streamline minor source permitting, we plan to propose permits-by-rule for suitable source categories not covered by general permits. The permits-by-rule content and requirements will be addressed in a separate rulemaking action.

2. What is the process for issuing general permits?

Under 40 CFR 49.156(b), we have finalized the provisions for the general permits issuance process. The reviewing authority may issue a general permit for a category of emissions units or sources that are similar in nature, have substantially similar emissions and would be subject to the same or substantially similar requirements governing operations, emissions, monitoring, reporting and recordkeeping. ''Similar in nature'' refers to size, processes and operating conditions.

A general permit must be issued according to the requirements for public participation in 40 CFR 49.157 and the requirements for final permit issuance and administrative and judicial review in 40 CFR 49.159. Issuance of a general permit is considered final action with respect to all aspects of the general permit except its applicability to an individual source. The sole issue that may be appealed after an individual source is approved to construct under a general permit is the applicability of the general permit to a particular source. We did not receive comments regarding the proposed general permit issuance procedures under 49.156(b). Consequently, we are finalizing the provisions under 49.156(b) as proposed.

3. For what categories will general permits be issued?

Under 40 CFR 49.156(c), we have finalized provisions allowing the reviewing authority to determine which categories of individual emissions units, groups of similar emissions units or

sources are appropriate for general permits in its area.

General permits may be issued to cover any category of numerous similar sources, provided that such sources meet the appropriate criteria. For example, permits can be issued to cover small businesses such as gas stations or dry cleaners. General permits may also, in some circumstances, be issued to cover discrete emissions units, such as individual solvent cleaning machines at industrial complexes.

In addition, in setting criteria for sources to be covered by general permits, your reviewing authority will consider the following factors. First, categories of sources or emissions units covered by a general permit should be generally homogeneous in terms of operations, processes and emissions. All sources or emissions units in the category should have essentially similar operations or processes and emit pollutants with similar characteristics. Second, the sources or emissions units should be expected to warrant the same or substantially similar permit requirements governing operation, emissions, monitoring, recordkeeping and reporting.

A few commenters specifically requested establishing general permits for the oil and gas sector. Other commenters were more general in their general permits recommendations and stated that general permits should be adopted for categories of similar sources and emissions units and developed before the minor NSR program is adopted in Indian country. These commenters also added that EPA needs to define further the criteria for developing general permits and the categories of emissions sources to which the program may apply. For example, some of these commenters would like us to develop general permits that are consistent across all of Indian country.

Based on the comments received, we are in the process of developing general permits for various source categories under the factors mentioned. The permits will be consistent across all of Indian country, as some commenters suggested, unless there is a need to develop specific provisions or a specific general permit, for a particular area of Indian country. We also plan to develop these general permits, after the opportunity for public notice and comment, using the public noticing procedures under 40 CFR 49.157. Furthermore, we plan to update general permits, also after the opportunity of notice and comment under 40 CFR 49.157, as appropriate to account for advances in control technology or for other pertinent reasons. However, when we update a general permit, sources operating under the existing general permit will be able to continue to operate under that existing permit until such time when the source is modified.

4. What are the permit content requirements for general permits?

General permits must contain the same permit elements required for permits issued under the site-specific preconstruction review rules. These permit elements are described in section IV.B of this preamble and listed in final 40 CFR 49.155(a).

In addition, the general permit must identify the specific category of emissions units or sources to which the general permit applies, including any criteria that your emissions unit must meet to be eligible for coverage under the general permit. The general permit must also include information required to apply for coverage under the general permit, such as the name and address of your reviewing authority, how to obtain application forms and the information you must provide to demonstrate that you are eligible for coverage. Finally, the reviewing authority may include other general permit terms and conditions as it deems necessary.

We did not receive any comments on the permit content requirements for general permits. Therefore, we are finalizing the general permit content requirements as proposed under 49.156(d).

5. What is the process that you may use for obtaining coverage under a general permit?

Under 40 CFR 49.156(e), we have finalized provisions that state that once a general permit has been issued for a source category or category of emissions units, you may submit a request for coverage under that general permit if your proposed new minor source or modification qualifies for that permit. Alternatively, you may apply for a site-specific permit under the provisions of 40 CFR 49.154.

If your source qualifies for a general permit, you may request coverage under that general permit to the reviewing authority 4 months after the effective date of the general permit, that is, 6 months after publication of the general permit in the **Federal Register**. The reviewing authority must act on your request for coverage under the general permit as expeditiously as possible, but it must notify you of the final decision within 90 days of its receipt of your coverage request.

Your reviewing authority must comply with a 45-day completeness review period to determine if your request for coverage under a general permit is complete. Therefore, within 30 days after the receipt of your coverage request, your reviewing authority must make an initial request for any additional information necessary to process this request and you must submit such information within 15 days. If you do not submit the requested information within 15 days from the date of the request for additional information and this results in a delay that is beyond the 45-day completeness review period, the 90-day permit issuance period for your general permit will be extended by the additional days you take to submit the requested information beyond the 45-day period. If the reviewing authority fails to notify you within a 30-day period of any additional information necessary to process your coverage request, you will still have 15 days to submit such information and the reviewing authority must still grant or deny your request for coverage under a general permit within the 90-day general permit issuance period and without any time extension.

If the reviewing authority determines that your request for coverage under a general permit has all the relevant information and is complete, we will notify you in writing as soon as that determination is made. If you do not receive from the reviewing authority a request for additional information or a notice that your request for coverage under a general permit is complete within the 45-day completeness review period described previously, your request for coverage under a general permit will be deemed complete.

As proposed, your reviewing authority shall grant or deny your request for coverage under a general permit without another 30-day public comment period. However, you must submit a copy of such request to the Tribe in the area where your source is locating. We will also post notice of the coverage request under the general permit on our Web site. During our review of your request for coverage under the general permit, commenters can only notify us of any concerns about the eligibility of your source to obtain coverage under that general permit and not on any other issue. Your reviewing authority shall grant or deny your request for coverage under a general permit as expeditiously as possible by sending you a letter notifying you of the approval or denial of your request. This letter is a final action for purposes of judicial review (*see* 40 CFR 49.159) only for the issue of whether your source qualifies for coverage under the general permit. If your request for coverage under a general permit is approved, you

must post, prominently, a copy of the letter granting such request at the site where your source is locating and you must comply with all the condition and terms of the general permit.

You will be subject to enforcement action for failure to obtain a preconstruction permit if you construct the emission unit(s) or source under the general permit and your source is later determined not to qualify for the conditions and terms of the general permit. Any source eligible to request coverage under the general permit may alternatively apply for a site-specific permit under 40 CFR 49.154.

We received a few comments regarding the timeline in which the reviewing authority must notify you of the final decision on a request for coverage under a general permit. These commenters argued that the 90-day period we proposed for the reviewing authority to determine coverage under the general permit should be eliminated or at least reduced to 30 days. However, we continue to believe that a 90-day permit issuance timeframe is appropriate since reviewing authorities need adequate time to determine if your request for coverage has all the relevant information and is complete. If not, the reviewing authority will need to request additional information.

Moreover, we believe it is appropriate to add a completeness review time period for sources requesting coverage under a general permit, as one commenter suggested, to ensure that both sources and reviewing authorities act on the request for coverage under a general permit as expeditiously as possible.

In regards to a 30-day public comment period for when a source requests to be covered under a general permit, some commenters expressed concerns about this provision arguing that this will significantly delay or disrupt the permitting process. Other commenters were more concerned about being informed about the sources planning to construct in their area. To address these comments, we have decided not to require a 30-day comment period for sources seeking coverage under a general permit. However, as stated previously, you and the reviewing authority must implement the other notification procedures.

Regarding the requirement to post prominent notice of the letter approving your request for coverage under a general permit, we received two comments. One of these commenters believed that we should allow the general permit and letter to be maintained at the operator's office closest to the emission source since, specifically, many oil and gas sites are unmanned. Another commenter believed that requiring an applicant to post information at the source about the fact that now a general permit will be applied to this source is duplicative of the public review and comment period and thus unnecessary.

We continue to believe that posting, prominently, a copy of the letter granting your request for coverage under a general permit at the site where the source is locating is appropriate since this will facilitate any inspection by the reviewing authority. Moreover, this will allow the public to be informed about the sources locating in their area. The original copy of this letter of approval can be kept in a safe place, for example, a corporate office, especially for source locations that are unmanned.

Accordingly, we are finalizing the general permit issuance procedures under 40 CFR 49.156(e) mainly as proposed. In addition, in the final rule we are including provisions for addressing when a general permit becomes invalid that mirror the corresponding site-specific permit provisions (see section IV.B.4.b of this preamble for more information on these provisions).

Finally we want to add that if a general permit has been issued for your source category, you have the option to request coverage under that general permit 4 months after the effective date of the permit (*i.e.,* 6 months after the general permit is published) or you can apply for a site-specific permit according to the provisions under 40 CFR 49.154. However we want to clarify that since we are delaying the implementation date of this minor NSR program to true minor sources for 36 months after the effective date of this rule (see section VII.C of this preamble for an explanation of these implementation provisions), if you elect not to seek coverage under the general permit available for your source category, you will have to apply for a site-specific permit prior to construction if that occurs prior to the 36 month implementation date. In other words, there will be no permitting grace period if a general permit exists for your source category prior to the 36-month period and you elect not to seek coverage under that general permit.

D. Synthetic minor source permits

Some sources have the potential to emit one or more pollutants in major source amounts, but have actual emissions that are below the major source thresholds. These sources are called ''synthetic minor sources'' and the term means a source that otherwise has the potential to emit regulated NSR pollutants in amounts that are at or above those for major sources in 40 CFR 49.167, 40 CFR 52.21 or 40 CFR 71.2, as applicable, but has taken a restriction so that its potential to emit is less than such amounts for major sources. Such restrictions must be enforceable as a practical matter (as defined in 40 CFR 49.152).

The designation of synthetic minor source is allowed for both regulated NSR pollutants and HAPs and although you may choose to obtain such emission limitations at your own discretion, once you have accepted an enforceable emission limitation, you must comply with that limitation. This is necessary to ensure that you are legally prohibited from operating as a major source. In addition, if you apply for a synthetic minor source or synthetic minor HAP source, you must comply with the same public participation requirements and the same procedures for final permit issuance and administrative and judicial review found at 40 CFR 49.157 and 40 CFR 49.159 respectively.

In our proposal we explained that our 1999 policy memo on synthetic minor sources in Indian country currently provides guidance on how sources that would otherwise be major sources under section 302 or part D of title I of the Act can become synthetic minor sources if their actual emissions remain below 50 percent of the relevant major source PTE threshold and they comply with all other requirements of the policy memo.[22] However, as the memo specifies, this PTE transition policy terminates when we adopt and implement a mechanism that you can use to limit your potential to emit or we explicitly approve a program providing such a mechanism. This minor NSR program adopts and implements a mechanism that you can use to limit your potential to emit and as such it terminates the PTE transition policy.

Several commenters supported the proposal to allow synthetic minor source permits because this option has been previously available for sources located outside of Indian country. On the other hand, two commenters opposed the proposal to allow for synthetic minor source permits since they believe that synthetic minor source permits are not available outside of Indian country and therefore HAP sources would rush to Indian country to avoid MACT standards.

[22] John S. Seitz and Eric V. Schaeffer. Policy memo. ''Potential to Emit Transition Policy for Part 71 Implementation in Indian Country.'' March 7, 1999.

Another commenter opined that the proposed synthetic minor rule will hinder some Tribes' ability to develop or maintain their own sustainable title V major source permitting programs. This commenter argued that allowing for synthetic minor source permits in Indian country will decrease the number of major sources under this program thereby reducing the permitting fees collected and used by Tribes to run their title V permitting programs. One commenter also added that general permits should be allowed for synthetic minor sources.

We agree with those commenters that would like us to allow synthetic minor source permits for both criteria pollutants and HAPs. We believe that allowing synthetic minor source permits could be beneficial to the environment by reducing the amount of pollution that could have been emitted to the air otherwise. In addition, this option has been available for sources outside of Indian country for both regulated NSR pollutants and HAP sources for many years. Thus, we disagree with the commenters who believed that we will be creating pollution havens in Indian country for HAP sources because HAP sources who obtain synthetic minor permits need to comply with emissions limits that are enforceable as a practical matter (as defined in 40 CFR 49.152) and with the applicable regulations under 40 CFR Part 63.

We do not believe that synthetic minor source permits will significantly reduce the number of title V major sources in Indian country and hence the associated permit fees, since we do not anticipate many sources to change their current status to synthetic minor status once this rule is final. The PTE transition policy had already allowed sources in Indian country, until this FIP becomes final, to limit their potential to emit to avoid major source status for purposes of the title V program. However, if a Tribe is concerned that existing title V programs may be unsustainable after a certain number of sources change their existing title V permits to synthetic minor source permits, the Tribe will have to consider raising their title V fees as necessary to ensure that, as stated in section 502(b)(3) of the Act, the fees collected under the title V program are ''sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements.''

We also disagree with the commenter that would like us to allow the use of general permits for synthetic minor sources since these sources are major sources until they are approved to construct under a synthetic minor source permit. We believe that the size and amount of emissions from these sources warrants a case-by-case review of the source and their proposed emission limitations. Therefore, in the final rule, we are not allowing general permits for synthetic minor sources.

In this final rule apart from specifying the circumstances under which a new source may obtain a synthetic minor source permit, we are also clarifying the possible mechanisms under which synthetic minor source permits have been issued to date and the requirements these sources may have to comply with after the effective date of this rule.

Consequently, we are finalizing provisions under 40 CFR 49.158 that state that you may obtain a synthetic minor source permit under this program to establish a synthetic minor source for PSD, nonattainment major NSR and title V purposes and/or a synthetic minor HAP source for MACT standards and title V purposes. Any source that becomes a synthetic minor for NSR and title V purposes but has other applicable requirements or becomes a synthetic minor for NSR but is major for title V purposes, must also apply for a part 71 title V permit. In addition, you, as the permit applicant, will have to submit a permit application pursuant to the provisions of 40 CFR 49.158(a) and 40 CFR 49.154 and you will also be subject to the permit requirements at 40 CFR 49.155 and 49.158 which include, among other things, case-by-case control technology review as well as monitoring, recordkeeping and reporting requirements.[23]

Hence, we are finalizing the synthetic minor source permit application procedures mainly as proposed, with the exception that we are requiring the reviewing authority to notify you of the permit application completeness determination in writing and thus eliminating the requirement that you, as the permit applicant, should contact the reviewing authority to find out the date of receipt of the application. The final synthetic minor source permit application requirements state that you must submit a permit application to the reviewing authority and within 60 days after receipt of an application, the reviewing authority will determine if it contains the information specified in 40 CFR 49.158(a). If the reviewing authority determines that the application is not complete, it will request additional information from you as necessary to process the application. If the reviewing authority determines that the application is complete, it will notify you in writing. The reviewing authority's completeness determination or request for additional information should be postmarked within 60 days of receipt of the permit application by the reviewing authority.

We are also adding a provision, to be consistent with the site-specific and general permit provisions, to state that if you do not receive a request for additional information or a notice of complete application postmarked within 60 days of receipt of the permit application by the reviewing authority, your application would be deemed complete. The reviewing authority must provide an opportunity for public participation and public comment on the draft synthetic minor source permit as set out in 40 CFR 49.157. The final synthetic minor source permit will be issued and will be subject to administrative and judicial review as set out in 40 CFR 49.159.

The provisions of the final rule address the various possible scenarios for synthetic minor source permits as follows:

- If you own or operate an existing major source and you wish to obtain a synthetic minor source permit pursuant 40 CFR 49.158 to establish a synthetic minor source and/or a synthetic minor HAP source,[24] you may submit a synthetic minor source permit application on or after the effective date of the final rule, that is, on or after August 30, 2011. However, if your

[23] Please note that if you propose to construct or modify a synthetic minor source, you are subject to the synthetic minor source provisions under 40 CFR 49.158 and the preconstruction permitting requirements in 40 CFR 49.154 and 49.155, except for the completeness review and permit issuance timeline provisions. The permit completeness review and permit issuance timeline provisions that apply for sources seeking a synthetic minor permit are specified in 40 CFR 49.158(b).

[24] EPA's historic policy is ''that facilities may switch to area source status [in this case through a synthetic minor permit] at any time until 'the first compliance' of the standard. The ''first compliance date'' is defined as the first date a source must comply with an emission limitation or other substantive regulatory requirement (i.e., leak detection and repair programs, work practice measures, housekeeping measures, etc * * *, but not a notice requirement) in the applicable MACT standard. Facilities that are major sources for HAPs on the ''first compliance date'' are required to comply permanently with the MACT standard to ensure that maximum achievable reductions in toxic emissions are achieved and maintained.'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, U.S. EPA, ''Potential to Emit for MACT Standards—Guidance on Timing Issues'' (May 16, 1995). EPA continues to believe that this policy best reflects the way Congress intended the MACT program to function. As a result, if you own or operate a major source subject to a MACT standard for which the initial compliance date has already passed, you cannot become a synthetic minor source for purposes of or otherwise avoid continuing to comply with, that particular MACT standard.

permit application for a synthetic minor source and/or synthetic minor HAP source pursuant to the FIPs for reservations in Idaho, Oregon and Washington has been determined complete prior to August 30, 2011, you do not need to apply for a synthetic minor source permit under this program.

- If you wish to commence construction of a new synthetic minor source and/or a new synthetic minor HAP source,[25] or a modification at an existing synthetic minor source and/or synthetic minor HAP source, on or after the effective date of the final rule (that is, on or after August 30, 2011), you must obtain a permit pursuant to 40 CFR 49.158 prior to commencing construction.
- If your existing synthetic minor source and/or synthetic minor HAP source was established pursuant to the FIPs applicable to the Indian reservations in Idaho, Oregon and Washington or was established under an EPA-approved rule or permit program limiting potential to emit, you do not need to take any action under this program unless you propose a modification for your existing synthetic minor source and/or synthetic minor HAP source on or after the effective date of this rule, that is, on or after August 30, 2011. For these modifications, you must obtain a permit pursuant to 40 CFR 49.158 prior to commencing construction.
- If your existing synthetic minor source and/or synthetic minor HAP source was established under a permit with enforceable emissions limitations issued pursuant to the part 71 program, the reviewing authority has the discretion to require you to submit a permit application pursuant to 40 CFR 49.158 for a synthetic minor source permit under this program within 1 year after the effective date of the final rule (that is, by September 4, 2012) or to require you to submit a permit application for a synthetic minor source permit under this program (pursuant to 40 CFR 49.158) at the same time that you apply to renew your part 71 permit or to allow you to continue to maintain synthetic minor status through your part 71 permit. If the reviewing authority requires you to obtain a synthetic minor source permit and/or a synthetic minor HAP source permit under this program (pursuant to 40 CFR 49.158), it also has the discretion to require any additional requirements, including control technology requirements, based on the specific circumstances of the source.
- If your existing synthetic minor source and/or synthetic minor HAP source[26] was established through a mechanism other than those described in preceding paragraphs, you must submit an application for a synthetic minor source permit pursuant to 40 CFR 49.158 within 1 year of the effective date of the final rule, that is, by September 4, 2012. The reviewing authority has the discretion to require any additional requirements, including control technology requirements, based on the specific circumstances of the source.

If you submit your application and any requested additional information in the timelines indicated above, your source will continue to be considered a synthetic minor source or synthetic minor HAP source (as applicable) until your synthetic minor source permit under this program has been issued. Should you fail to submit your application and any requested additional information in the timelines indicated above, your source will no longer be considered a synthetic minor source or synthetic minor HAP source (as applicable) and will become subject to all requirements for major sources.

E. Case-by-Case MACT Determinations Under Section 112(g) of the Act

Section 112(g)(2)(B) of the Act provides that you may not construct or reconstruct a major source of HAPs unless the appropriate permitting authority determines that MACT for new sources will be met. If the Administrator has not established a MACT standard for the source category, the Act requires that MACT be determined on a case-by-case basis.

The regulations implementing section 112(g)(2)(B) are at 40 CFR 63.40 through 63.44. The regulations at 40 CFR 63.43(c) set forth several options for procedures that can be used to accomplish case-by-case MACT determinations. These options include using title V administrative procedures if a pre-construction or reconstruction (63.43(c)(1)) title V permit is required or can be obtained, applying for and obtaining a Notice of MACT Approval (63.43(c)(2)(i)) and ''any other administrative procedures for preconstruction review and approval established by the permitting authority for a state or local jurisdiction which provide for public participation * * *'' (63.43(c)(2)(ii)).[27]

Currently, no Tribes have an EPA-approved title V permitting program or have adopted any other program to implement section 112(g), although one Tribe has been delegated authority to assist us with implementation of the Federal part 71 operating permit program (*i.e.,* the Federal program for issuing title V permits). Therefore, EPA expects that it will conduct case-by-case MACT determinations for sources in Indian country.

Furthermore, while we can accomplish a section 112(g) case-by-case MACT determination through a part 71 permit issued pre-construction or reconstruction or a Notice of MACT Approval, we believe that if your source is a major source only for HAPs and a minor source for regulated NSR pollutants, the minor NSR program is an appropriate ''other administrative procedures'' under 63.43(c)(2)(ii) for obtaining a case-by-case MACT determination. In addition, if your source is or could be minor for regulated NSR pollutants and is or could be major for HAPs, it would also be administratively convenient for you and for us, as the reviewing authority, to combine the construction permit process for both regulated NSR pollutants and case-by-case MACT determinations under the final minor NSR program, rather than to address regulated NSR pollutants under the minor NSR program and also go through the part 71 permit for preconstruction or reconstruction or Notice of MACT Approval process to address case-by-case MACT requirements. Note that even with this approach to preconstruction review, the source is still a major source for HAP under the MACT program (unless the source becomes a synthetic minor source) and thus you ultimately will have to obtain a part 71 operating permit for your major source of HAPs.

Several commenters supported the proposal to provide for case-by-case MACT determinations in the minor NSR program because they stated this will be consistent with the practice of most state programs, it would be administratively convenient and regulation of HAPs is important to health. On the other hand, one commenter argued that if a source is major for HAPs, the source should not apply for a minor source permit because

[25] *See* previous footnote regarding the timing for obtaining potential to emit restrictions on sources seeking a synthetic minor HAP permit.

[26] You can only be an existing synthetic minor HAP source if your current PTE limits are federally enforceable. 40 CFR 63.2. As a result, a source located in Indian country can only be an existing synthetic minor HAP source if the limits on its PTE were established through a mechanism administered by or on behalf of EPA.

[27] See also 63.42(b) for an additional option where the permitting authority has not adopted a 112(g) program but has authority to make case-by-case MACT determinations.

applying for a case-by-case MACT determination under the minor NSR program would exempt the source from the MACT program.

We agree with those commenters that supported the use of the minor NSR program as one of the mechanisms for obtaining a case-by-case MACT determination. As we stated previously, it is administratively convenient for us, as the reviewing authority and for you as the source owner to combine the preconstruction permit review process for both regulated NSR pollutants and case-by-case MACT determinations under this minor NSR program. If not, the minor NSR source that is also major for HAPs would have to apply for a minor NSR permit and a separate preconstruction or reconstruction part 71 permit or Notice of MACT Approval for its case-by-case MACT determination of its HAP emissions. We want to clarify, however and as the opposing commenter suggested, that using the minor NSR program as the mechanism for a section 112(g) case-by-case MACT determination does not mean that a major source will escape the major source requirements under the MACT program. The source still needs to comply with the requirements of 40 CFR 63.40 through 63.44 that apply to case-by-case MACT determinations using ''other administrative procedures.'' In addition, any source that is required to obtain a case-by-case MACT determination is a major source of HAPs and will have to obtain a part 71 permit.

In addition, we would like to clarify that for case-by-case MACT determinations under this minor NSR program, we will apply the public noticing requirements under 40 CFR 49.157 and the administrative and judicial review procedures under 40 CFR 49.159. *See* final 40 CFR 49.153(a)(4) for the provisions related to section 112(g) case-by-case MACT determinations.

F. Treatment of Existing Minor Sources Under the Minor NSR Program

In the proposal preamble, we raised the question of whether it may be appropriate to also regulate existing minor sources in Indian country under this minor NSR program to help attain and maintain the NAAQS. At proposal, we discussed four options for the treatment of existing minor sources, as follows:

- *Option 1*—No requirements for existing minor sources (until a source wishes to make a modification).
- *Option 2*—Require existing synthetic minor sources to become subject to the minor NSR program requirements (including control technology review and other requirements as provided in section IV.A.5 through 9 of the proposal preamble) and to submit a permit application within 1 year after the effective date of the program.
- *Option 3*—Require all existing minor sources to register within 1 year after the effective date of this program, but not be subject to the permitting requirements.
- *Option 4*—Require all existing minor sources to be subject to the minor NSR program requirements (as provided in section IV.A.5 through 9 of the proposal preamble).

Numerous commenters supported Option 1. These commenters believed that this option is consistent with state minor NSR programs, is the least burdensome on existing sources and the EPA and Tribes do not have the resources available to implement any of the other options. In addition, these commenters opined that regulation of existing sources is not needed to maintain the NAAQS. On the other hand, a few commenters opposed this option, mainly because they believed it would not address any air quality impacts resulting from existing sources.

Regarding Option 2, a few commenters supported this option if it were to be used in combination with other options such as Option 1 or 3. However, two commenters specifically opposed Option 2 because they believe this option represents extremely onerous provisions for sources and reviewing authorities.

Several commenters supported Option 3 because they believed it would only place a small administrative burden on existing sources to report their existing emissions while providing Tribes with important information about the existing emissions within their jurisdictions. Nevertheless, one commenter opposed this option because the commenter believed Option 3 will be unduly burdensome and overbroad and could significantly disadvantage minor sources already operating in Indian country.

A few commenters supported Option 4 by noting that states have generally regulated minor sources and thus that experience could aid the implementation of this option. Another commenter added that EPA could meet the requirements under Option 4 if we used a ''sunset clause.'' A ''sunset clause'' would allow sources some time to come into compliance and thereby avoid undue economic burden all at once. On the other hand, other commenters opposed this option because they generally believe it is extremely onerous for both sources and reviewing authorities.

After considering the comments, we have decided to finalize Option 3 for true minor sources. For synthetic minor sources, we are finalizing provisions as stated in section IV.D of this final rule preamble, which include provisions that require certain sources to obtain permits under this program 1 year after the effective date of this rule.

We are not finalizing our preferred option for ''true'' minor sources, Option 1, because even though we agree that this option is consistent with state minor NSR programs and it is the least burdensome option for existing minor sources, we believe that collecting source inventory data for minor sources in Indian country is necessary to successfully implement the minor NSR program. In addition, these source inventory data are needed to assess the feasibility of an actual emissions based applicability test and to determine if we need to modify the minor NSR thresholds at a later time. We are also not finalizing Option 4 at this time because we believe that Option 4 would overwhelm limited EPA resources even if we were to use a ''sunset clause.''

Thus, under the program we are finalizing, we are creating a registration program for minor sources in Indian country. Under the minor source registration program, if you own or operate an existing true minor source in Indian country (as defined in 40 CFR 49.152(d)) you must register your source with your reviewing authority in your area within 18 months after the effective date of this program, that is, by March 1, 2013. This date has been modified from the 12 months we proposed to provide existing sources additional time to comply with these requirements. These provisions are discussed further in section VII.C of this preamble. If your true minor source commences construction in the time period between the effective date of this rule and September 2, 2014, you must register your source with the reviewing authority in your area within 90 days after the source begins operation.

If construction or modification of your source commenced any time on or after September 2, 2014 and your source is subject to this rule, you must report your source's actual emissions (if available) as part of your permit application and your permit application information will be used to fulfill all the other registration requirements described in 40 CFR 49.160(c)(2).

This registration will be a one-time registration (not an annual registration) of your source's estimated actual and allowable emissions as provided in 40

CFR 49.160. For the Indian reservations subject to the registration requirements under 40 CFR 49.138 (''Rule for the registration of air pollution sources and the reporting of emissions''), the data being collected under that rule will be used to fulfill the requirements of this national registration program.

V. Final Major NSR Program for Nonattainment Areas in Indian Country

In this final action, we are establishing a major NSR program for new major sources and major modifications at existing major sources in nonattainment areas of Indian country at 40 CFR 49.166 through 49.175. This program is designed to meet the requirements of part D of title I of the Act and, as proposed, sources subject to this program would be required to comply with the requirements of 40 CFR part 51, Appendix S (Appendix S).

Appendix S is titled ''Emission Offset Interpretative Ruling'' and sets forth preconstruction review requirements for major sources and modifications locating in nonattainment areas where the state does not have an EPA-approved nonattainment major NSR program. In general, Appendix S is a transitional nonattainment major NSR program that covers the period after an area has been newly designated as nonattainment, up until the time that the state has amended its SIP's nonattainment major NSR program, as needed, to address the new nonattainment area. The requirements under Appendix S are essentially the same as our requirements for state nonattainment major NSR programs at 40 CFR 51.165.

We are finalizing our proposal to apply Appendix S to nonattainment areas in Indian country for a number of reasons. Primarily, we believe it is appropriate to apply Appendix S provisions in Indian country for administrative convenience. Additionally, since Appendix S generally applies in nonattainment areas where there is no approved nonattainment major NSR program and since no Tribe currently has such a program, we believe that Appendix S should also apply in Indian country. Another reason for requiring sources subject to this program to comply with Appendix S requirements is that the EPA Regional Offices (which will be implementing the program until an EPA-approved implementation plan is in place) and owners/operators of several major sources in Indian country are familiar with the implementation and provisions of Appendix S.

We considered and rejected the option of amending Appendix S to extend its application to Indian country, since we believe that sources in Indian country are more likely to look for regulations applicable to them under part 49, which is solely dedicated to regulations that apply in Indian country. We also considered drafting a parallel major NSR regulation to apply to sources in Indian country, but rejected this option since it would essentially re-propose Appendix S provisions, which have been in effect outside of Indian country for many years. We wanted to avoid any potential confusion or possible perception that these parallel regulation requirements would be different than the Appendix S requirements.

A. What are the requirements for major source permitting?

Pursuant to paragraph IV of Appendix S, we have finalized that a reviewing authority may issue a permit for a new major source or a major modification locating in a nonattainment area, if it complies with the following conditions:

1. The new major source or a major modification meets the LAER for that source using add-on controls or pollution prevention measures.
2. The applicant certifies that all existing major sources owned or operated by the applicant (or any entity controlling, controlled by or under common control with the applicant) in the same state as the proposed source are in compliance with (or under a Federally-enforceable compliance schedule for) all applicable emission limitations and standards under the Act.
3. Emission reductions (offsets) from existing sources in the area of the proposed source (whether or not under the same ownership) are obtained such that there will be reasonable progress towards attainment of the applicable NAAQS.[28]
4. The emission offsets provide a net air quality benefit in the affected area.
5. The permit applicant conducts an analysis of alternative sites, sizes, production processes and environmental control techniques for such proposed source that demonstrates that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.

We received only a few comments regarding the use of Appendix S for Indian country. A couple of commenters did not explicitly support or oppose the use of Appendix S in Indian country, while one commenter suggested that Appendix S failed to address provisions under the CAA. The commenter pointed out that section 173(a)(5) of the Act provides for permits in a nonattainment area to be issued if ''an analysis of alternative sites, sizes, production processes and environmental control techniques for such proposed source demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.'' However, the provisions under 40 CFR Part 51, Appendix S did not include such requirement even when this requirement is included in every approved SIP in the country. Therefore, by requiring only the provisions of Appendix S, the commenter believed that the proposed nonattainment major NSR program failed to satisfy the requirements of the Act. The commenter suggested that a requirement for an adequate alternate site assessment should be added to the proposed regulations as a complementary requirement to Appendix S.

Upon further review of Appendix S, we agree that the section 173 alternate site provision was inadvertently missing from Appendix S regulations. Therefore, we have amended Appendix S to include the section 173 alternatives site provision to ensure that the provisions of the 1990 amendments, including the CAA section 173 alternative sites analysis provision, is codified in implementing regulations. *See* section V.F. of this preamble for more details on the Appendix S amendments.

B. How is EPA addressing the lack of available offsets in Indian Country?

Tribal representatives have repeatedly stated that requirements for emission offsets are problematic in Indian country because: (1) Many Tribes believe that transport is a major cause of pollution in Indian country, (2) Tribes generally do not have many existing sources within their area of Indian country from which offsets can be obtained, and (3) administrative barriers may hinder Tribal access to otherwise available offsets. Therefore, Tribal representatives have advocated for additional flexibility to address offsets, such as the provision of NSR offset set-

[28] In general, only intrapollutant offsets are permitted (*e.g.,* NO_X for NO_X). As part of the rulemaking to implement the NSR program for $PM_{2.5}$, Appendix S and 40 CFR 51.165 were revised to allow interpollutant trading of emissions of $PM_{2.5}$ and its precursors under certain conditions (73 FR 28321, May 16, 2008). However, this aspect of the regulations is currently under reconsideration by EPA. *See* letter from Lisa P. Jackson, EPA Administrator, to Paul R. Cort, Earthjustice, April 24, 2009. *http://www.epa.gov/nsr/documents/Earthjustice.pdf.*

asides (which we expect would come from state offset pools or banks).[29]

We recognize the unique circumstances that Tribes face. Unlike states that have a SIP, a huge industrial base with several hundred existing sources and a broad range of measures to attain and maintain NAAQS, a Tribe generally has neither a TIP nor many existing sources from which to generate offsets. Because of these circumstances, we proposed two options to address the lack of availability of offsets for Tribes: (1) The Economic Development Zone (EDZ) option, and (2) the Appendix S, paragraph VI option.

1. Economic Development Zone Option

For this option we rely on section 173(a)(1)(B) of the Act under which the Administrator, in consultation with the Secretary of Housing and Urban Development (HUD), may identify zones within nonattainment areas as EDZs such that sources subject to major NSR located in EDZs in Indian country would be exempt from the offset requirement in section 173(a)(1)(A) of the Act.

Section 173(a)(1) of the Act provides for the issuance of permits to construct and operate a new or modified major stationary source if the reviewing authority determines that (A) ''* * * sufficient offsetting emissions reductions have been obtained * * *'' or (B) ''in the case of a new or modified major stationary source which is located in a zone (within a nonattainment area) identified by the Administrator, in consultation with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted, that emissions of such pollutant resulting from the proposed new or modified major stationary source will not cause or contribute to emissions levels which exceed the allowance permitted for such pollutant for such area from new or modified major stationary sources under section 172(c).''

Once the Administrator has identified an area that should be targeted for economic development in consultation with HUD, major sources that construct or modify within that area are relieved of the offset requirement if the state/Tribe can demonstrate that the new permitted emissions are consistent with the achievement of reasonable further progress pursuant to section 172(c)(4) of the Act and will not interfere with attainment of the applicable NAAQS by the applicable attainment date.

To be identified as an EDZ, HUD's Initiative for Renewal Communities, Urban Empowerment Zones and Urban Enterprise Communities generally require that participating communities demonstrate pervasive poverty, high unemployment and general distress throughout the designated area. The United States Department of Agriculture requires similar eligibility criteria for participating communities located in rural areas. We believe that some areas of Indian country may meet these criteria and hence could qualify for this offset relief provision.

As we proposed, the Administrator will consult with HUD only once to develop a general set of approval criteria, such that a consultation with HUD is not required every time a Tribe applies for its area of Indian country to be designated as an EDZ. Also as proposed, EPA intends to provide assistance as needed for a Tribe to complete an EDZ designation request. If the Administrator approves such a request from a Tribe, a new major source or a major modification locating in that EDZ would be exempt from the offset provisions.

2. Appendix S, Paragraph VI Option

Paragraph VI of Appendix S notes that in some cases the dates for attainment of the primary or secondary NAAQS may not have passed. In such cases, Appendix S provides that a new source locating in a nonattainment area may be exempt from the requirements of paragraph IV.A of Appendix S (discussed in section VI.A of this preamble), including the offset requirement, if the following conditions are met:

- The new source complies with the applicable implementation plan emission limitations;
- The new source will not interfere with the attainment date for a regulated NSR pollutant; and
- We have determined that the preceding two conditions are satisfied and such determination is published in the **Federal Register**.

It is important to note that this option only provides temporary offset relief because it will cease to be available once the attainment date for a pollutant has passed.

Several commenters gave general support to waiving the requirement for offsets in Indian country, either through support of one or both of the proposed options or through advocating a general waiver on other grounds. For example, some commenters suggested that:

- EPA should allow sources in Indian country to obtain offsets not just from the Indian country area itself, but from adjacent or upwind areas. Section 173(c) of the Act specifically provides that offsets may be used if they are from an area with an equal or higher nonattainment classification and if emissions from that area contribute to a violation of the NAAQS in the area needing the offsets.
- EPA should allow Tribes to participate in state offset pools. With the approach of opening offset pools to Tribes, those Tribes wishing to develop major sources in nonattainment areas would still be able to do so, but would be treated like other sources needing to obtain an offset to maintain air quality.
- EPA should implement a set-aside program in which Tribes receive a certain amount of offset emissions that would need to be made up by the other sources in the state. The commenter believed that this would be fair because most nonattainment problems in Indian country are caused by sources that are not under Tribal control.
- EPA, the states, the Tribe and sources could collaborate to identify acceptable offsets outside of Indian country.
- EPA should launch a concerted effort to improve the availability of offsets in all areas that need them (not just in Indian country) by encouraging the development of protocols to allow the creation of offsets from nontraditional sources, especially mobile and area/minor sources.
- Tribes should be afforded the opportunity to request a permanent offset waiver based on language in the TAR. The TAR: ''provide[s] an opportunity for Indian Tribes to assume responsibility for the development and implementation of CAA programs on lands within the exterior boundaries of their reservations or other areas within their jurisdiction.'' Thus, the commenter believed that the waiver will allow the opportunity for Tribes to be able to develop and implement the nonattainment major NSR program.

However, other commenters believe that offsetting of major NSR projects should be a requirement of the nonattainment major NSR program and no waivers should be given. These commenters opined that offset waivers would: (1) Likely be illegal under the Act, (2) cause air quality concerns, and (3) be unfair for sources located or locating outside of Indian country. For example, one of the commenters indicated that there is a significant shortage of offsets in virtually every

[29] Tribal representatives have raised these and other concerns in discussions on implementation of the 8-hour ozone and $PM_{2.5}$ standards and in comments on the 8-hour ozone implementation rule. For example, *see* the letter from Bill Grantham, National Tribal Environmental Council, to docket EPA–HQ–OAR–2003–0076, providing comments on the proposed 8-hour ozone implementation rule (66 FR 32802).

district in California, while another commenter added that the proposal would create an incentive for industrial sources to find Indian country a kind of refuge from regulatory requirements—resulting in a tilted playing field and exacerbating air quality and public health problems on reservations. Other commenters stated that:

- Setting up an offset bank within an area of Indian country would be difficult because no source on Tribal land is currently subject to NSR and therefore there are currently no offsets from sources on Tribal land to be bought or sold. The commenter believed that with no available offsets, when NSR is enacted on Tribal lands, the price of the first offsets will be unaffordable for most if not all sources on Tribal lands.
- There would be problems in allowing sources on Tribal lands access to the State offset banks. The commenter believed that states will be apprehensive to allow sources on Tribal lands access to state-established offset banks because states will not receive the tax revenue from offsets purchased by sources on Tribal lands as they do with sources within the state.
- EPA, state and Tribal collaboration should not make it necessary for Tribes to go to the states to obtain offsets for economic development on the reservation since it denigrates the government-to-government relations.
- Offsets should not be traded between Indian country and the states due to Tribal sovereignty issues and potential for confusion involving monitoring and tracking costs, as well as who receives tax revenue from the offsets.

In regards to the EDZ option, supporting commenters believed that this option provides the flexibility for EPA not to require emissions offsets for a project where economic development and environmental protection are equally important concerns, while opposing commenters believed that the EDZ option cannot lawfully be applied in the present circumstances. According to one commenter, under section 173(a)(1)(B) of the Act, the affected source must not cause or contribute to emissions levels ''which exceed the allowance permitted for such pollutant for such area from new or modified stationary sources under section 172(c).'' The latter section, at section 172(c)(4) of the Act, provides that the implementation plan shall identify and quantify the emissions, if any, that will be allowed to be used under section 173(a)(1)(B) (the EDZ section) and shall ''demonstrate to the satisfaction of the Administrator that the emissions quantified for this purpose will be consistent with the achievement of reasonable further progress and will not interfere with attainment of the applicable national ambient air quality standard by the applicable attainment date.'' Thus, the commenter believed that, in the absence of a TIP that quantifies the allowance and makes the required demonstration, this precondition for offset relief in EDZs would not generally be met within Indian country.

Furthermore, another commenter believed that, by definition, the proposed rule does not apply where there is a TIP and thus EPA would need to look at the relevant SIP of the surrounding or adjacent state for the applicable ''allowance of emissions'' for EDZ sources. The commenter noted that in many cases there may be no such allowance and that even if the relevant State SIP includes an allowance, that allowance would almost certainly not have been calculated under the assumption that areas in Indian country could access the allowance. Under these circumstances, the commenter asserted, the affected state would be entitled under the Act to determine in the first instance what, if any, access to the allowance it wished to make available to sources in Indian country. The commenter concluded that as a matter of law the EDZ option is unavailable unless and until the relevant state creates and makes available an appropriate allowance.

Another commenter also noted that as proposed, EPA would consult with the Secretary of Housing and Urban Development only once to develop a general set of approval criteria for EDZs. The commenter stated that this approach appears to conflict with the language of the Act, which requires consultation on each individual zone.

In regards to the Appendix S, paragraph VI option, several commenters supported it because, as one of these commenters stated, this option provides equivalent environmental protection. The reviewing agency has to demonstrate that the proposed source will not interfere with the attainment date for the regulated NSR pollutant(s) in the area.

However, a number of commenters had misgivings about the paragraph VI option, generally based on legal or environmental grounds. Two commenters stated that the paragraph VI option is inapplicable and unlawful because: (1) There is no applicable implementation plan in Indian country, so no source can ''comply with applicable implementation plan emissions limitations'' (in addition, one of these commenters conceded that if we interpret this to require the source to meet the SIP limits in the surrounding or adjacent state, this requirement could be met), (2) if there is no applicable implementation plan, it will be impossible to demonstrate that a source will not interfere with the attainment date for a nonattainment pollutant, (3) the Act requires that for every major source, the source must provide sufficient offsetting emissions reductions such that there is a reduction in emissions amounting to reasonable further progress, when considered together with emissions from other new and existing sources (*see* section 173(a)(1)(A) of the Act) and (4) the 1990 Amendments to the Act set out specific offset ratios which major sources must meet, such as 1.5 to 1 for Extreme Areas, 1.3 to 1 for Severe Areas, *etc.* (section 182 of the Act). These ratios may be met on an aggregate basis (*i.e.,* individual sources may be exempt from offsets if the state makes an equivalency demonstration showing that the universe of new sources as a whole meets the applicable ratios). However, nothing in paragraph VI requires that equivalency demonstration to be made. Therefore, the commenter noted that paragraph VI on its face violates the 1990 Amendments to the Act.

Other commenters stated that the paragraph VI option is not acceptable because it would be difficult for some Tribes to meet the criteria. They stated that such a waiver does not balance legitimate development needs with environmental protection or that a major source could not interfere with attainment. One of these commenters also noted that these waivers would expire at attainment dates and added that these ''expiration dates'' established by states should not be imposed on Tribes.

As we stated previously, we recognize the unique circumstances that Tribes face as well as the difficulty in obtaining offsets in certain parts of the country; however, we do not have the legal authority to waive the offset requirement under section 173 of the Act or under the TAR.

Thus and to address the lack of offsets availability, both inside and outside of Indian country, we encourage states and Tribes to work together in the creation and use of offset banks for their lands since we agree that, where appropriate, Tribes can obtain offsets from surrounding areas. For example, Tribes may enter into a Memorandum of Understanding (MOU) with their neighboring states to allow Tribal access to offsets in the state offset bank and vice-versa if and when Tribes develop

their own offset banks. This MOU would contain provisions establishing the criteria for emissions reductions to be used as offsets such as real, quantifiable, surplus, permanent and enforceable.

Furthermore, we are addressing the lack of availability of offsets in general. For example, in the final rule titled, ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)'' (73 FR 28340), we finalized provisions that allow for inter-pollutant and inter-precursor trading of offsets between direct PM2.5 emissions and its precursor emissions. We believe this is a first step in the process of addressing the shortage of offsets in the nation and we will continue to explore and implement, as one commenter suggested, the use of non-traditional sources of offsets such as offsets from mobile sources and area or minor sources.

Regarding the offset waivers we proposed, we want to clarify that these waivers are currently available under the CAA and implementing regulations for both states and Tribes. The EDZ option is currently available under section 173(a)(1)(B) of the Act and the Appendix S paragraph VI option is currently available under 40 CFR part 51 Appendix S. Therefore, we disagree with those commenters that believed that if the proposed offset waivers would only be available for Indian country, then states would be at an economic disadvantage and/or that we would be creating pollution havens in Indian country.

Nevertheless, based on the opposing comments we received, including comments from the Tribes, regarding the implementation issues under the Appendix S Paragraph VI option, we are only allowing the EDZ option that is currently available under the statute for both Tribes and States as a potential option for offset waiver and we are not finalizing the Appendix S Paragraph VI option in this final rule.

After reviewing all the comments received, we believe that the EDZ option as established by statute is available for offset relief as long as the area meets the statutory criteria in order to qualify. In other words, Tribes who develop TIPs might request EPA to establish their area as an EDZ so they can avail themselves of the offset provision under section 173 of the Act.

However, we disagree with the commenter who believed that, by definition, the proposed rule does not apply where there is a TIP and thus EPA would need to look at the relevant SIP of the surrounding or adjacent state for the applicable ''allowance of emissions'' for EDZ sources. We do not see why the commenter believed that a TIP is not an appropriate mechanism for the EDZ provision under section 173 since the TAR provides that Tribes will be treated in the same manner as states for virtually all CAA programs and states generally lack jurisdiction under the Act over facilities in Indian country.

The ability of an area to qualify would be determined on a case-by-case basis, but criteria for including Tribes in the EDZs and for consultation with the Tribes will need to be developed in advance and in coordination with the Secretary of Housing and Urban Development. These criteria will ensure that Tribal and state input are included and that considerations are put in place to avoid industries coming into an area strictly for the offset relief. Therefore, we disagree with the commenter that believed that a general set of approval criteria will be in conflict with the language of the Act.

We are not finalizing the Appendix S provision as an option for offset waiver, since the provision is only available temporarily and it will be challenging for EPA or the Tribe to demonstrate that the proposed source will not interfere with the attainment date.

C. How do I meet the statewide compliance certification requirement of the Act and Appendix S?

Pursuant to the statewide compliance certification requirements of section 173(a)(3) of the Act, as reflected in Appendix S at Condition 2 of paragraph IV.A, an owner or operator of a proposed new or modified major stationary source must demonstrate that all other major sources under his/her control in the same state are in compliance or on a schedule for compliance with all emission limitations and standards under the Act. In the context of Indian country, we sought comment on whether this requirement should be expressed as an Indian country-wide compliance certification or remain a statewide certification. In other words, we requested comment on whether you should be required to certify that all your sources in the state where your proposed source is locating are in compliance or that all your sources in all of Indian country are in compliance.

We received a variety of comments on this issue. Several commenters believed that the certification should be on a state-wide basis because: (1) It will not provide sources in Indian country with a competitive advantage over sources in non-Indian country, and (2) obtaining certification for all of Indian country would be very difficult since it is a vast area and sources under common control may be operated by different business units of the same parent company. On the other hand, one commenter believed that state-wide compliance certification would give EPA overreaching authority to facilities that are operating under SIP-approved programs within the state since other sources within the same state may not be within Indian country and thus regulated by the state rather than EPA.

Regarding the Indian country-wide certification, one commenter supported it. The commenter believed this type of certification will benefit Tribes by allowing for the development of compliance databases, assisting Tribes with monitoring patterns of noncompliance, minimizing risk of noncompliance and building and enhancing consumer and market confidence.

Other commenters provided comments supporting a national certification (not proposed) since they believed that expanding the requirement will ensure that the sources attempting to locate in Indian country will operate within regulatory parameters and several reservations exist in more than one state. Other commenters supported a certification for each applicable area of Indian country since these commenters believe that: (1) It would be too burdensome to require such certification across all of Indian country and (2) this is more consistent with treatment of individual Tribes as states under applicable EPA regulations.

After consideration of comments, we are finalizing a state-wide compliance certification requirement consistent with section 173(a)(3) of the Act. We believe that a state-wide compliance certification: (1) Provides a broad enough look at the compliance history of the company, without overburdening the review process and (2) reflects a geographic approach to the certification rather than an approach based on the entity that is sovereign. An Indian country-wide certification would not have the proximity and geographic contiguity that a state-wide approach would have.

D. What are the public participation requirements for this program?

We believe that the public participation requirements of 40 CFR 51.161 apply to permitting under Appendix S. Additionally, for the nonattainment major NSR program in Indian country, we are finalizing detailed public participation requirements at 40 CFR 49.171. As proposed, the final public participation

requirements for the nonattainment major NSR program are very similar to those finalized for the minor NSR program at 40 CFR 49.157. *See* section IV.B of this preamble for more information on these requirements and the comments we received.

E. What are the provisions for final action on a permit, permit reopenings and administrative and judicial review procedures?

In general, these provisions are based closely on selected provisions of part 124, subpart A. The specific provisions are as follows:

1. Final Action on a Permit

This final rule requires that after making a decision to issue or deny your permit, the reviewing authority must notify you of the decision in writing and, if the permit is denied, provide the reasons for the denial. If the reviewing authority issues a final permit to you, it must make a copy of the permit available at any location where the draft permit was made available. In addition, the reviewing authority must provide adequate public notice of the final permit decision to ensure that the affected community, general public and any individuals who commented on the draft permit have reasonable access to the decision and supporting materials. *See* final 40 CFR 49.172(a).

The reviewing authority's final decision on your permit must be based on an administrative record and the final rule includes requirements on what must be in that record. For example, the administrative record must include the application and any supporting data furnished by the applicant and all comments received during the public comment period, including any extension or reopening. *See* final 40 CFR 49.172(b) and (c) for a listing of all the requirements.

A few commenters largely supported the proposed provisions for providing notice of final permit actions. However, the commenters recommended that such notice be provided in the same manner that it was provided during the public comment on the draft permit. The commenters believed that numerous inconsistencies will occur if the agency uses subjective discretion based, as we proposed, ''upon the circumstances of your permit.''

Based on the comments received, we are finalizing slightly different final permit public notice requirements for the nonattainment major NSR program and the minor NSR program. We believe that for major sources in nonattainment areas making a copy of the permit available at all of the locations where the draft permit was made available will not be too burdensome for the reviewing authorities and will ensure that the affected community and the general public have reasonable access to the applicable information. These provisions are included in 40 CFR 49.171 of this final rule. However, for minor sources, we continue to believe that depending on the circumstances of your permit, the reviewing authority may elect to provide notice directly to the individuals who commented on the draft permit and/or use any of the other methods of public notice discussed in section IV.B.4 of this preamble because providing the same public noticing procedures as those that were used during the comment period for the draft permit might be too burdensome for minor sources. These provisions are included in 40 CFR 49.157 of this final rule.

Regarding the administrative record for a permit decision, we are finalizing these provisions as proposed and under 40 CFR 49.172(b) and (c). The records, including any required applications for each draft and final permit or application for permit revision, must be kept by the reviewing authority for no less than 5 years. These provisions are the same as the ones for the minor NSR program and details of the comments received and the rationale behind finalizing these provisions are included in section IV.B.3 of this preamble. We did not receive any comments about these provisions specifically for the nonattainment major NSR program.

2. Permit Reopenings

Regarding the permit reopening provisions, the final rule requires that a permit may be reopened for cause by the reviewing authority on its own initiative, such as if it contains a material mistake or fails to assure compliance with permit requirements. *See* final 40 CFR 49.172(e). Details of the comments received and the rationale behind finalizing these provisions are included in section IV.B.5 of this preamble. We did not receive any comments about these provisions specifically for the nonattainment major NSR program.

3. Administrative and Judicial Review Procedures

At 40 CFR 49.172(d), we have finalized the provisions under which permit decisions for major nonattainment NSR permits may be appealed. Details of the comments received and the rationale behind finalizing these provisions are included in section IV.B.5 of this preamble. We did not receive any comments about these provisions specifically for the nonattainment major NSR program.

F. How is EPA revising Appendix S?

As we explain in more detail in section V.A. of this preamble, we are amending Appendix S to include the alternative sites analysis provisions of CAA section 173. Therefore, we are finalizing a change to Appendix S that will add a Condition 5 to the provisions under 40 CFR Appendix S Paragraph IV.A. This condition will state that the permit applicant shall conduct an analysis of alternative sites, sizes, production processes and environmental control techniques for such proposed source that demonstrates that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.

In addition and as proposed, we are finalizing a minor change to Appendix S that is related to the ''emission limitations and standards of the Act.'' Existing paragraph II.B of Appendix S requires the reviewing authority to review each proposed new major source and major modification to determine whether it will meet ''any applicable NSPS in 40 CFR part 60 or any national emission standard for HAPs in 40 CFR part 61.'' While we have incorporated this requirement into final 40 CFR 49.169(a), we believe that it should be expanded to include the newer national emission standards for HAPs codified at 40 CFR part 63 (commonly referred to as MACT standards). Accordingly, we are revising paragraph II.B of Appendix S to add these standards under the Act and to match the revised language of this paragraph with the final 40 CFR 49.169(a). We did not receive any comments for this proposed provision.

VI. Legal Basis, Statutory Authority and Jurisdictional Issues

A. What is the basis for EPA's authority to implement these NSR programs in Indian country?

As we have described in section III of this preamble, in the absence of an EPA-approved program, we are authorized to develop a FIP to protect air quality by directly implementing provisions of the Act throughout Indian country. *See, e.g.,* 59 FR 43958–61 (August 25, 1994), 63 FR 7262–64 (February 12, 1998) and 62 FR 13750 (March 21, 1997). For the PSD program, no Tribe is currently administering an EPA-approved PSD program.[30] Therefore, EPA has been

[30] Under the Act and the TAR (*see* 40 CFR part 49, subpart A), eligible tribes may seek approval of

Continued

implementing a FIP and issuing PSD permits for major sources in attainment areas in Indian country. *See* 40 CFR 52.21.

For the nonattainment major NSR program and the minor NSR program in Indian country, no Tribes have been administering an EPA-approved nonattainment major NSR program and only a few Tribes have been administering EPA-approved minor NSR programs.[31] In addition, there has been no FIP in place to implement these programs until now. Hence, there was a regulatory gap in Indian country. This final rule will allow us to address that gap and more fully implement the NSR program in Indian country. We are finalizing the minor NSR program at 40 CFR 49.151 through 49.165 and the nonattainment major NSR program at 40 CFR 49.166 through 49.175.

It is important to recognize, however, that even though we are adopting this Federal program that applies in Indian country, the Tribes may still develop TIPs, similar to SIPs, to implement these programs. If a Tribe develops a TIP to implement NSR, the TIP, once it is approved by EPA, will replace the Federal program as the requirement for that area of Indian country and the Tribe will become the reviewing authority under its TIP.

A few commenters remarked upon EPA's analysis of its jurisdiction in Indian country (citing various court cases as well as legislative history). These commenters believed that in general Congress placed the primary responsibility of preventing air pollution on states and thus states have the responsibility to adopt or enforce any emission standards in Indian country. Some of these commenters also added that this FIP violates the CAA because the Administrator has failed to make a finding that any specific state or Tribe has failed to submit an implementation plan or that any specific implementation plan either fails to satisfy the minimum criteria under the Act or has been disapproved in whole or in part. In addition, the commenter believed that the Act only authorizes the adoption of a FIP on a jurisdiction-by-jurisdiction basis, not nationally. Two of these commenters also stated that even if the EPA adopts the proposed nationwide FIP, the FIP cannot supersede and EPA must acknowledge, the State of Oklahoma's right to administer its state air quality programs in areas of Indian country within Oklahoma under the Federal Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users (2005). We disagree with these commenters to the extent they believe EPA does not have authority under the Act to implement these programs in Indian country.

EPA's Authority To Implement the CAA in Indian Country. In the final rule titled, ''Indian Tribes: Air Quality Planning and Management,'' generally referred to as the ''Tribal Authority Rule'' or ''TAR,'' EPA explains that it intends to use its authority under the CAA ''to protect air quality throughout Indian country'' [32] by directly implementing the CAA's requirements where Tribes have chosen not to develop or are not implementing an EPA-approved CAA program. 63 FR 7254, February 12, 1998. The final TAR at 40 CFR 49.11 states that EPA would ''promulgate without unreasonable delay such FIP provisions as are necessary or appropriate to protect air quality'' for these areas. The EPA is exercising its authority under sections 301(a) and 301(d)(4) of the CAA and 40 CFR 49.11(a) to promulgate FIPs in order to remedy an existing regulatory gap under the CAA with respect to Indian country.

Although many facilities in these areas may have historically followed state and local government air quality programs, with rare exception, EPA has never approved those governments to exercise regulatory authority under the CAA in any area of Indian country. In addition, EPA has never approved a state or local government to implement a minor NSR or nonattainment major NSR program in Indian country.[33] Since the CAA was amended in 1990, EPA has been clear in its approvals of state programs that the approved state program does not extend into Indian country. It is EPA's position that, absent an explicit demonstration of authority by a state to administer a CAA program in Indian country and absent an explicit finding by EPA of such jurisdiction and explicit approval of the state in Indian country, state and local governments lack authority under the CAA over air pollution sources and the owners or operators of air pollution sources throughout Indian country.

Because only a few Tribes have yet sought eligibility to administer a minor NSR program and no Tribe has yet sought eligibility for the nonattainment major NSR program, a gap for implementation of these programs currently exists in Indian country. Given the longstanding air quality concerns in some areas and the need to establish requirements in all areas to maintain CAA standards, EPA believes that these FIP provisions are appropriate to protect air quality in Indian country where no EPA-approved minor NSR or nonattainment major NSR program is in place.

The rules published here are based on the same CAA authority as EPA has used elsewhere in rulemaking that have been affirmed by the courts. The EPA's interpretation of its authority has been affirmed by the U.S. Court of Appeals for the District of Columbia Circuit in *Arizona Public Service Co.* v. *EPA,* 211 F.3d 1280 (DC Cir. 2000), *cert. denied* 121 S. Ct. 1600 (2001). In addition, EPA's authority to issue operating permits to major sources located in Indian country under title V of the Act, pursuant to nationwide regulations at 40 CFR part 71, was affirmed in *State of Michigan* v. *EPA,* 268 F.3d 1075 (DC Cir. 2001). The EPA has used this same authority to issue a number of FIPs to address air pollution concerns on a regional basis and at specific facilities located in Indian country. *See* Federal Implementation Plans Under the Clean Air Act for Indian Reservation in Idaho, Oregon, Washington, 40 CFR part 49, subpart M (70 FR 18074, April 8, 2005) (upheld in *Safe Air for Everyone* v. *EPA,* 2006 WL 3697684 (9th Cir. 2006)); FIP for Tri-Cities landfill, 40 CFR 49.22 (64 FR 65664, November 23, 1999); Salt River Pima-Maricopa Indian Community, 40 CFR 49.22 (64 FR 65663, November 23, 1999); FIP for the Astaris-Idaho LLC Facility (formerly owned by FMC Corporation) in the Fort

their own PSD programs for their reservations and/or for other areas under their jurisdiction.

[31] For example, the St. Regis Mohawk Tribe has in place an EPA-approved TIP that includes provisions for minor NSR and synthetic minor permitting (See *http://www.srmtenv.org/pdf_files/airtip.pdf*). In addition, the Gila River Indian Community has developed a TIP that includes a minor NSR program (*See http://www.epa.gov/region9/air/actions/gila-river.html*).

[32] ''Indian country'' is defined under 18 U.S.C. 1151 as: (1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation, (2) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a state, and (3) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. Under this definition, EPA treats as reservations trust lands validly set aside for the use of a tribe even if the trust lands have not been formally designated as a reservation.

[33] For purposes of approving the Washington Department of Ecology (WDOE) operating permits program under 40 CFR part 70, EPA explicitly found that WDOE demonstrated that the Washington Indian (Puyallup) Land Claims Settlement Act, 25 U.S.C. 1773, gives explicit authority to state and local governments to administer their environmental laws on all nontrust lands within the 1873 Survey Area of the Puyallup Reservation in Tacoma, Washington.

Hall PM–10 Nonattainment Area, 40 CFR 49.10711 (65 FR 51412, August 23, 2000) and FIP for Four Corners Power Plant, Navajo Nation, 40 CFR 49.23 (72 FR 25698, May 7, 2007) (upheld in *Arizona Public Service Co.* v. *EPA,* 562 F.3d 1116 (10th Cir. 2009)).

Effects of State Law. The rules established by EPA here are in effect under the CAA. The EPA recognizes that in a few cases, other state or local governmental entities may have established air quality requirements that the commenters believe apply to activities in Indian country. However, unless those rules or requirements have been explicitly approved by EPA under the CAA to apply in Indian country, compliance with those other requirements does not relieve a source from complying with the applicable provision of this FIP. As EPA has stated elsewhere, states generally lack the authority to regulate air quality in Indian country. *See Alaska* v. *Native Village of Venetie Tribal Government,* 522 U.S. 520, 527 fn.1 (1998) (''Generally speaking, primary jurisdiction over land that is Indian country rests with the Federal Government and the Indian Tribe inhabiting it and not with the States.''), *California* v. *Cabazon Band of Mission Indians,* 480 U.S. 202, 216 and n.18 (1987); see also *HRI* v. *EPA,* 198 F.3d 1224, 1242 (10th Cir. 2000); see also discussion in EPA's final rule for the Federal operating permits program, 64 FR 8251–8255, February 19, 1999.

Furthermore, with regard to Indian reservations, EPA interprets the CAA as establishing unitary management of air resources and as a delegation of Federal authority to eligible Tribes to implement the CAA over all sources within reservations, including non-Indian sources on fee lands. Accordingly, even if a state could demonstrate authority over non-Indian sources on fee lands within an Indian reservation, EPA believes that the CAA generally provides the Agency the discretion to Federally implement the CAA over all Indian reservation sources in order to ensure an efficient and effective transition to Tribal CAA programs and to avoid the administratively undesirable checker-boarding of reservation air quality management based on land ownership. The EPA believes that Congress intended that EPA take a territorial view of implementing air programs within reservations. The EPA also believes that air quality planning for a checker-boarded reservation area would be more difficult and that it would be inefficient if a state were to exercise regulation over piecemeal tracts of land within such areas, possibly with similar Indian country sources being subject to different substantive requirements. The EPA's approach provides for coherent and consistent environmental regulation within Indian country.

Although EPA does not recognize state or local air regulations as being effective within Indian country for purposes of the CAA, absent an express approval by EPA of those regulations for an area of Indian country, this rulemaking does not address the validity of state and local law and regulations with respect to sources in Indian country or the authority of state and local agencies to regulate such sources, for purposes other than the Federal CAA. We are specifically not making a determination that these Federal CAA rules override or preempt any other laws that have been established outside the scope of the Federal CAA. The EPA does not, therefore, believe that any further preemption analysis suggested by the commenters is needed in these circumstances. As described above, EPA believes that its authority under the CAA to implement these programs in Indian country is clear and well-established and has been upheld by reviewing courts in similar circumstances.

With regard to the comments relating to Indian country and the State of Oklahoma, EPA recognizes that the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 (SAFETEA) contains a provision (section 10211) relating to implementation of environmental regulatory programs under Federal environmental laws, including the CAA, in Indian country in Oklahoma. However, to date, neither the State of Oklahoma, nor any Indian Tribe in Oklahoma, has applied for EPA approval to administer either of the CAA programs included in this rulemaking for any area of Indian country. In the absence of an EPA-approved program, these FIPs will apply throughout Indian country, including Indian country in Oklahoma. In promulgating these FIPs, EPA is not acting on any potential request by the State of Oklahoma to administer any CAA or other regulatory program in Indian country, nor is EPA acting on any potential treatment-in-the-same-manner-as-a-state application for an environmental regulatory program by any Indian Tribe in Oklahoma. The EPA would address any such applications when necessary and on a case-by-case basis and in full consideration of the requirements of Section 10211 of SAFETEA. Section 10211 of the SAFETEA is thus not implicated in this rulemaking and is not a relevant consideration in EPA's promulgation of the minor and nonattainment major NSR programs for Indian country, including Indian country in Oklahoma.

B. How does a Tribe receive delegation to assist EPA with administration of the Federal minor and major NSR rules?

With this action, we are finalizing the provisions on administrative delegation to Tribes as proposed. Our authority for such delegations is discussed in the following paragraphs.

Under the procedures set forth in the TAR, Tribes may seek to demonstrate eligibility for approval of Tribal programs under the Act, including a Tribal NSR program, under Tribal law.[34] The TAR allows Tribes to seek approval for such programs covering their reservations or other areas within their jurisdiction. However, we recognize that some Tribes may choose not to develop Tribal NSR programs for submission to EPA for approval under the TAR, but that these Tribes may still wish to assist us in implementing all or some portion of the Federal NSR program for their area of Indian country. In addition, although sections 110(o) and 301(d) of the Act and the TAR authorize us to review and approve TIPs, neither the Act nor the regulations provide that approval of Tribal programs under Tribal law is the sole mechanism available for Tribal agencies to take on permitting responsibilities. Accordingly, we are exercising our discretion to delegate administration of the Federal NSR program to interested and qualified Tribal agencies satisfying the requirements of final provisions at 40 CFR 49.161 and 49.173. By assisting us with administration of the Federal program through delegation, Tribes may remain appropriately involved in implementation of an important air quality program and may develop their own capacity to manage such programs in the future should they choose to do so. Therefore final 40 CFR 49.161 and 49.173 of the minor and major NSR rules, respectively, provide Tribal governments the option of seeking delegation from us of the administration of the Federal NSR program or aspects of the program, for their area of Indian country.

We have well-established processes for delegating our Federal authority to states and/or Tribes for administering Federal rules under the Act, including

[34] As noted elsewhere, the TAR contains a process, pursuant to section 301(d) of the Act, for tribes to seek treatment in a similar manner as a state (TAS), for various provisions and programs of the Act.

conducting NSR under 40 CFR 52.21(u),[35] issuing Federal operating permits under 40 CFR 71.4(j) and 71.10 and delegation to Tribes of elements of the Federal air rules for Indian country in the Pacific Northwest under 40 CFR 49.122. The process we will follow to delegate the administration of the Federal NSR program to a Tribal agency is similar to the process we follow to delegate the administration of Federal programs under those provisions.

This administrative delegation is to be distinguished from the TAS process under the TAR whereby Tribes seek approval to run programs under Tribal law. Tribes would not need to seek TAS under the TAR in order to request delegation of administration of aspects of these Federal NSR programs. Tribes would, however, need to provide the relevant application information described in sections 40 CFR 49.161 and 49.173.[36] In addition, program functions delegated under final 40 CFR 49.161 or 49.173 remain part of the relevant FIP administered under Federal law. The delegate Tribal agency would simply assist EPA with administration of the program to the extent of the functions delegated.

As described in the preamble to the TAR,[37] it is our position that the TAS provision of the Act constitutes a statutory delegation of authority to eligible Tribes over their reservations. As described earlier, the TAR established procedures for our approval of Tribal eligibility applications to operate the programs of the Act under Tribal law. Where we approve a Tribal eligibility application and approve a Tribal NSR program, the approved Tribe will manage the program under Tribal law and the Tribal program becomes Federally enforceable. Among the required elements of a Tribal eligibility application under the TAR is a demonstration of the Tribe's authority, including appropriate enforcement authority, to regulate air quality for the areas to be covered by the program. For air resources within the exterior boundaries of a Tribe's reservation, the Tribe may rely on the Congressional delegation of Federal authority to operate approved Tribal programs. Tribes may also attempt to demonstrate authority to operate the programs of the Act over other areas outside of their reservations, generally including non-reservation areas of Indian country. *Arizona Public Service Co.* v. *EPA,* 211 F. 3d 1280 (DC Cir. 2000), cert. den., 532 U.S. 970 (2001).

In contrast, the administrative delegation approach finalized in these rules provides for us to delegate administration of the Federal program operating under Federal law to interested Tribes that provide the information described in final 40 CFR 49.161(b)(1) and 49.173(b)(1). Since this program operates throughout Indian country under Federal authority, Tribes will not need to demonstrate either Congressionally-delegated authority over air resources within the exterior boundaries of their reservations or authority of non-reservation areas of Indian country. Instead, Tribal agencies will assist us in implementing the Federal program by taking delegation of the administration of particular activities conducted under our authority in Indian country. Under final 40 CFR 49.161(b)(1)(iii)(C) and 49.173(b)(1)(iii)(C), Tribes will only need to show that their laws provide adequate capacity and authority to carry out the delegated activities. For example, where a Tribe seeks administrative delegation for permit issuing activities of the Federal program, the Tribe may, among other things, need to show it has in place an appropriate agency with legal authority to review applications and issue permits on behalf of the delegate Tribal government. For these administratively delegated programs, Federal program requirements will continue to be subject to enforcement by EPA, not the delegate Tribal agency, under Federal law. Administrative appeals of permitting decisions will also continue to be made directly to the EAB under our administrative procedures with any subsequent judicial review to be conducted in Federal court. In the final rules we make it clear that we will not delegate enforcement or appeal components of the program to Tribal agencies.

When delegation is approved, a Partial Delegation of Administrative Authority Agreement between the Administrator and the Tribal agency will set forth the terms and conditions of the delegation and will also specify the rules and provisions that the Tribal agency is authorized to implement. Once the delegation becomes effective, the Tribal agency will have the authority under the Act, to the extent specified in the Agreement, to administer the rules in effect for the particular area of Indian country and to act on behalf of the Administrator. The Federal requirements administered by the delegate Tribal agency will be subject to enforcement by EPA under Federal law.

When we have delegated administration of the portion of the Federal minor or major NSR program that includes receipt of permit application materials and preparation of draft permits, the delegate Tribal agency must provide us a copy of each permit application (including any application for permit revision) and each draft permit.[38] In any such delegation, we retain the authority to object to the issuance of any permit that we determine not to be in compliance with the requirements under the program or other requirements pursuant to regulations under the Act. For any such objections, we will outline the reasons for the objection in writing and we will provide a copy of the written statement to the permit applicant. The delegate Tribal agency may not issue a permit if we object to its issuance in writing. The delegate Tribal agency may submit a revised draft permit to us in response to the objection. However, if it does not do so within 90 days, we will issue or deny the permit in accordance with the requirements of the Federal minor or major NSR program, as applicable.

We did not receive any comments expressly supporting our delegation provisions. However, a number of commenters opined that when a Tribe has administrative delegation of the program, enforcement authority should be delegated to the Tribes as well. These comments are addressed in section VII.B of this preamble.

Other commenters oppose delegation of the program to the Tribes. One of these commenters believed that

[35] The current provisions under 40 CFR 52.21(u) do not allow a tribe to request delegation of the PSD program. However, we are aware of this deficiency and we are currently working on a rulemaking that will amend this provision.

[36] This information includes identifying the specific rules and provisions and the area of Indian country for which the delegation is requested. In addition, tribal agencies seeking delegation must provide a statement by the tribe's legal counsel or equivalent official including a statement that the tribe is recognized by the Secretary of the Interior, a descriptive statement demonstrating that the tribe is currently carrying out substantial governmental duties and powers over a defined area (this statement should be consistent with the type of information described in 40 CFR 49.7(a)(2), which relates to the separate process by which tribes apply to be treated in a similar manner as states for various purposes under the Act), a description of the laws of the tribe that provide adequate authority to administer the federal rules and provisions for which the delegation is requested and a descriptive statement demonstrating that the tribal agency has, or will have, the technical capability and adequate resources to administer the federal rules and provisions for which the delegation is requested.

[37] *See* 63 FR 7254–59.

[38] The proposed minor and major NSR programs provide that the delegate tribal agency may require the applicant to provide a copy of the permit application directly to us. In addition, with our consent, the delegate tribal agency may submit to us a permit application summary form and any relevant portion of the permit application.

delegation demonstrations will be approved by EPA based on their administrative completeness, rather than on their technical merit and thus recommends that any delegation be contingent upon an approved TIP. Another commenter maintained that only the TAS process should be used to delegate authority of environmental programs to Tribes to avoid jurisdictional conflicts between EPA, Tribes and the state (especially in Oklahoma because there have been, according to the commenter, significant problems there with Tribes providing adequate jurisdiction of lands they claim) and to avoid confusion for the regulated community. The commenter suggested that if the administrative delegation process is included in the final NSR program, it should include a **Federal Register** public notice and comment provision. Another commenter believed that because EPA has not made any jurisdictional determinations in connection with the proposed FIP, delegation of authority to Tribes to assist in administering the FIP violates the plain requirements of the Act.

As described previously, EPA continues to believe that the CAA authorizes us to use the administrative delegation approach to assist EPA in carrying out implementation of our Federal program. *See* CAA section 301(a).[39] The EPA believes that the administrative delegation provisions provide additional flexibility for implementation of the Federal rules and establish an appropriate means for Tribal involvement in EPA's Federal implementation of CAA requirements.

As described above, delegation of the authority to assist EPA with administration of elements of the Federal NSR programs is a process that is distinct from approval of Tribal eligibility and Tribal programs under CAA section 301(d) and the TAR. To the extent the commenters are concerned that administrative delegation acts as an approval of Tribal authority, EPA reiterates that irrespective of any such delegation, the minor NSR and nonattainment major NSR programs established here will continue to operate under Federal authority subject to EPA appeal procedures before EPA's Environmental Appeals Board and to enforcement solely by EPA. The administrative delegation provision simply allows EPA to delegate certain functions to qualified Tribes that may then assist EPA with administration of the programs.

EPA also notes that because the minor and nonattainment major NSR programs will continue to operate under Federal authority (irrespective of administrative delegation of any functions to qualified Tribes), none of the jurisdictional issues raised in the comments should arise. Indeed, as described elsewhere, EPA's well-established Federal authority to implement CAA programs in Indian country in the absence of an EPA-approved program should provide jurisdictional certainty to all sources covered by these programs. Similarly, issues of Tribal jurisdiction over covered sources should not arise since no showing or finding of such jurisdiction is needed for administration of the Federal programs.

As noted in EPA's proposal of the minor NSR and nonattainment major NSR rules, EPA also intends to consult with other Federal, state, Tribal or local governmental entities or other governmental agencies in the area, prior to finalizing a delegation agreement with a Tribal agency. Although the CAA does not require such consultations or any specific process, to approve administrative delegations, EPA believes that this approach provides an appropriate opportunity for such governmental entities to express views regarding the potential delegation agreement and will assist EPA in identifying any unanticipated issues.

The EPA also notes that our establishment of criteria for the delegation provisions of the minor and nonattainment major NSR rules for Tribes seeking to assist EPA with administration of the Federal programs does not change the criteria EPA would evaluate in reviewing and acting upon Tribal applications for TAS under CAA section 301(d) and the TAR. CAA section 301(d) and the TAR at 40 CFR 49.6 and 49.7 establish the criteria Tribes must demonstrate and the types of information to be included in Tribal applications, to obtain TAS eligibility to administer Tribal programs under Tribal law.

Although the TAS and delegation criteria overlap in certain respects, they also contain significant differences, most notably in the required demonstration of authority. Tribes seeking TAS eligibility to administer approved Tribal regulatory programs under Tribal law must demonstrate their relevant authority, including appropriate enforcement authority, to regulate air quality in the areas to be covered by the program. *See* 40 CFR 49.6(c) and 49.7(a)(3). By contrast, because the minor and nonattainment major NSR programs will, in all circumstances, operate under Federal authority, Tribes requesting to assist EPA through administrative delegation need not demonstrate Congressionally-delegated authority over air resources within the exterior boundaries of their reservations or authority over non-reservations areas of Indian country. Instead, such Tribes would only need to show that their laws provide adequate capacity and authority to carry out the delegated activities. These distinctions between the TAS and administrative delegation requirements are important and EPA reiterates that nothing in either process is intended to affect the criteria and requirements for the other.

C. What happens to permits previously issued by states to sources in Indian country?

In the past, sources in some areas of Indian country may have received permits from states. However, states generally lack jurisdiction under the Act over these facilities and generally were not authorized under the Act to issue such permits in Indian country. *See* sections III.B and VI.A. of this preamble for more information. Therefore, this final rulemaking provides a mechanism to change state permits issued to major sources of regulated NSR pollutants in nonattainment areas of Indian country to Federal major NSR permits. If you own or operate a major source with a state-issued nonattainment major NSR permit, you must apply to convert the permit to a Federal permit under this program within 1 year of the effective date of this program. *See* final 40 CFR 49.168(b). We believe that transforming the state permits into Federal major NSR permits for major sources in Indian country is appropriate to protect air quality in Indian country.

A couple of commenters believed that the permit reapplication process set out in the proposed 40 CFR 49.158(c)(1) and 49.168(b) seems unnecessarily complex and thus these commenters argued that these permits should be transferred ''en masse'' from one agency to the other with a simple notification to the operator of the transfer or jurisdiction. One of these commenters added that if EPA feels that the ''en masse'' transfer methods are impracticable, then the source should be able to transfer the permit by submitting a transfer request (not a complete application) with a copy of the permit to both agencies, while the other commenter stressed that sources with state minor NSR permits should be

[39] Section 301(a)(1) of the Act provides that the Administrator is authorized to prescribe such regulations as are necessary to carry out his or her functions under the Act. This authority supports EPA's finalization of 40 CFR 49.161 and 49.173 of the minor and major NSR rules, respectively, which provide for partial administrative delegations to tribal agencies. However, nothing in the final rules requires us to delegate administration of any aspect of the federal program to a tribal agency.

grandfathered into the Indian country program and not required to conduct minor NSR permitting.

On the other hand, one commenter maintained that while previous state permit conditions may be appropriate to be included in the new Federal permit, this should not be automatic. The commenter also stated that government-to-government consultation between EPA and the affected Tribe must take place during this process. Furthermore, two commenters pointed out that the proposal did not discuss what enforcement mechanism would be used if a source failed to convert a state permit to a Federal permit in the given time frame and thus one of these commenters recommended that EPA should consider using Tribal courts for this purpose since the infraction would occur on Tribal lands and within Tribal jurisdiction.

After considering these comments, we believe that transforming state nonattainment major NSR permits into Federal nonattainment major NSR permits in Indian country is appropriate to protect air quality in Indian country. However, we do not believe that these permits should be transferred ''en masse'' from one agency to another or be automatically transferred because we need to determine if the permit complies with the applicable requirements under the NSR program. If it does not, a new permit with appropriate requirements would have to be public noticed and issued. If a source fails to obtain a required Federal permit by the established timeline and/or does not meet the applicable requirements under this rule, it may be subject to potential enforcement action. We also believe that since any failure of a source to convert a state permit into a Federal permit would be a violation of this rule, the violation is of the Federal requirement and thus administratively enforceable by EPA and in Federal court, not Tribal court. Because these programs are operated under Federal authority, there is no finding (and no need for a finding) of Tribal jurisdiction.

VII. Implementation Issues

A. Are Tribes allowed to collect fees for NSR permitting?

Many Tribal commenters suggested that the NSR program should include a mechanism that allows Tribes or the EPA to collect fees to offset the costs of the program, especially when a Tribe has been given delegation of the program. Two of these commenters pointed out that Tribes that do accept delegation of the program will need resources, such as funds to train and support personnel who will be reviewing and commenting on the permitting applications and funds for providing technical assistance to businesses regarding compliance issues. Some of these commenters also indicated that EPA should provide funding for Tribal implementation of the NSR program, for example, through cooperative agreements and grants.

The Agency is aware of and concerned about the resource needs of the rule, but the CAA does not give the Agency explicit authority to charge permit fees for pre-construction permitting. However, under a delegation agreement, EPA and the delegated Tribe could, as appropriate, establish mechanisms to fund the work by Tribal staff, that may include Federal funding assistance through cooperative agreements and grants and/or user fees and charges established by the Tribe [under Tribal law] for the purpose of funding its administrative activities on behalf of EPA (*See* Federal Implementation Plans Under the Clean Air Act for Indian Reservations in Idaho, Oregon and Washington (70 FR 18080)). In addition, Tribes that develop TIPs can charge for permits under their authority. Furthermore, the final rule includes a number of mechanisms to address concerns regarding the resource burden, including: Encouraging delegation of the program through trainings (face-to-face training sessions and through ITEP training) and developing and using general permits.

B. Who retains enforcement authority in Indian country?

Numerous Tribal commenters recommended that administrative delegation of the program to Tribes should include enforcement authority. Where they were specific, most of these commenters specified delegation of civil enforcement authority (including the ability to collect civil penalties to help support the program), but a number of commenters also favored delegation of criminal enforcement authority. In addition, commenters stated that by declining to administratively delegate enforcement (whether civil or criminal) of Federal permits to Tribes, EPA is acting inconsistently with other delegations which, in the commenters' view, withhold only criminal enforcement, but include civil enforcement. Other commenters also added that Tribes should be allowed to negotiate the level of enforcement authority on a case-by-case basis. We disagree with these commenters.

The EPA believes that these commenters mistake the distinction between approvals of Tribal programs under Tribal law provided for in the TAR and the administrative delegations at issue here. Where EPA approves an eligible Tribe for TAS under CAA section 301(d) and the TAR, EPA will continue to review the applicant Tribe's authority, including its authority to enforce, in an appropriate Tribal forum, any approved Tribal program operated under Tribal law. In such circumstances, EPA has recognized that certain limitations on Tribal criminal authority should not constitute a bar to Tribal program approval and has determined to fill any gap in Tribal criminal authority by retaining primary criminal enforcement at the Federal level for all circumstances in which a Tribe is precluded from exercising such authority. *See* 40 CFR 49.7(a)(6), 49.8. In such situations EPA would, however, generally expect the applicant Tribe to demonstrate authority to pursue appropriate civil enforcement under Tribal law of any approved Tribal program.

By contrast, any permits issued under the Federal NSR programs (even where issued by a Tribe acting on EPA's behalf pursuant to a delegation agreement) remain Federal in character and continue to be enforceable (whether civilly or criminally) in Federal court. EPA does not believe that it would be appropriate to delegate enforcement of a Federal permit in Federal court to an Indian Tribe assisting EPA with administration of the NSR program. Indeed, in similar circumstances EPA has consistently withheld enforcement in Federal court from any administratively delegated entity, whether a state or a Tribe. For instance, under certain other CAA programs (*e.g.,* EPA's major source operating permit program under 40 CFR part 70 and EPA's PSD program under 40 CFR 52.21) EPA may, in appropriate circumstances, delegate administration of elements of the program to non-Federal entities. However, while such entities may pursue enforcement in their own courts of parallel non-Federal air quality requirements, enforcement of the Federal permit in Federal court will always be retained and conducted by EPA.[40] *See* also 40 CFR 49.122; 70 FR 18074, 18080–81, April 8, 2005 (discussing EPA's similar approach to administrative delegation in the context

[40] Most states have sought and obtained EPA approval to administer their own minor and nonattainment major NSR programs administered under state law. To the extent the commenters believe that states are pursuing enforcement of NSR programs, EPA notes that such enforcement is likely being taken pursuant to State law under such approved state programs.

of FIPs for Indian reservations in the Pacific Northwest).

The EPA's approach to administrative delegation of the Federal NSR programs is thus consistent with other administrative delegation regulations and with EPA's approach to approval of Tribal programs under the TAR. The EPA notes that Tribes interested in enforcing NSR permits issued in their areas may continue to seek TAS eligibility and program approval pursuant to established procedures under the TAR. Indeed, EPA expects that the approach to administrative delegation of elements of the Federal NSR program may benefit such Tribes by providing opportunities for Tribes that are building air quality programs to gain experience by assisting EPA with administration of the Federal rules without needing to first develop Tribal air programs under Tribal law. To the extent such Tribes do subsequently obtain TAS eligibility and NSR program approval, their approved Tribal programs under Tribal law would replace the relevant Federal rule. In addition, EPA recognizes that some Tribes may choose not to develop air programs under Tribal law, but may still want to participate in air quality management in their areas of Indian country. Administrative delegation of elements of the Federal rules may provide an appropriate opportunity for such Tribal involvement.

Consequently, EPA believes the distinction between delegation of administration of aspects of the Federal NSR rules and approval of eligible Tribal programs under CAA section 301(d) and the TAR is significant and warrants EPA's retention of Federal enforcement of Federal NSR permits in Federal court. The EPA also believes that this approach does not create any inconsistency with its treatment of Tribal programs under the TAR or with EPA's approach to administrative delegations of other CAA programs to Tribes and states.

C. What is the implementation schedule for the final rules?

At proposal we stated that all the provisions of these final rules will be effective 60 days from publication of the final rule based on the information we had at the time about the number of sources that might need to seek permits under the minor NSR program. In the proposal, we noted that the data on minor sources in Indian country were very limited, but we projected that 288 new minor sources and 112 modifications will be required to obtain permits during the first six years of implementation of the minor NSR program (71 FR at 48724). Since then, however, the Agency has obtained additional information about sources in Indian country and the Agency now estimates that several thousand new and modified minor sources will be created in Indian country during the first six years following issuance of this rule (see section VIII of this preamble for more information about the projected number of new and modified sources that might be subject to this program).

Furthermore, a few commenters believed that neither EPA nor Tribal agencies had adequate resources to implement the NSR program without significant permitting delays. One commenter in particular was very concerned about the workload EPA Regions will have, especially those Regions that oversee large areas of Indian country, given EPA's presupposition that few, if any, Tribes will be prepared to pursue delegation of the responsibility to implement these requirements.

Therefore, upon review of our updated estimate of the projected number of covered sources and the comments we received pertaining to this issue, we agree that it would be very challenging for us, as the reviewing authority until a Tribe requests delegation or obtains approval of a TIP, to implement all elements of the final rules simultaneously beginning on the rules' effective date. We currently experience resource constraints and these rules will create new workload for the Agency, especially for those EPA Regions where EPA, as the reviewing authority, would oversee a large number of Tribes. Consequently, to ensure timely permit issuance, we have decided to delay the implementation date of the minor NSR permitting requirement for true minor sources for a period of 36 months after this rule's effective date, that is, September 2, 2014. The implementation dates of other parts of the program depending on the type of source being permitted are as follows:

Existing major sources.

• If you wish to commence construction of a minor modification at an existing major source on or after the effective date of the final rule (that is, on or after August 30, 2011), you must obtain a permit pursuant to 40 CFR 49.154 and 49.155 (or a general permit pursuant to 40 CFR 49.156, if applicable) prior to commencing construction.

• If you wish to obtain a synthetic minor source permit pursuant to 40 CFR 49.158 to establish a synthetic minor source and/or a synthetic minor HAP source at your existing major source, you may submit a synthetic minor source permit application on or after August 30, 2011. However, if your permit application for a synthetic minor source and/or synthetic minor HAP source pursuant to the FIPs for reservations in Idaho, Oregon and Washington has been determined complete prior to August 30, 2011 you do not need to apply for a synthetic minor source permit under this program.

Synthetic minor sources.

• If you wish to commence construction of a new synthetic minor source and/or a new synthetic minor HAP source [41] or a modification at an existing synthetic minor source and/or synthetic minor HAP source on or after the effective date of the final rule (that is, on or after August 30, 2011), you must obtain a permit pursuant to 40 CFR 49.158 prior to commencing construction.

• If your existing synthetic minor source and/or synthetic minor HAP source was established pursuant to the FIPs applicable to the Indian reservations in Idaho, Oregon and Washington or was established under an EPA-approved rule or permit program limiting potential to emit, you do not need to take any action under this program unless you propose a modification for this existing synthetic minor source and/or synthetic minor HAP source, on or after the effective date of this rule, that is, on or after August 30, 2011. For these modifications, you need to obtain a permit pursuant to 40 CFR 49.158 prior to commencing construction.

• If your existing synthetic minor source and/or synthetic minor HAP source was established under a permit with enforceable emissions limitations

[41] EPA's historic policy is ''that facilities may switch to area source status [in this case through a synthetic minor permit] at any time until ''the first compliance'' of the standard. The ''first compliance date'' is defined as the first date a source must comply with an emission limitation or other substantive regulatory requirement (i.e., leak detection and repair programs, work practice measures, housekeeping measures, etc * * *, but not a notice requirement) in the applicable MACT standard. Facilities that are major sources for HAPs on the ''first compliance date'' are required to comply permanently with the MACT standard to ensure that maximum achievable reductions in toxic emissions are achieved and maintained.'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, U.S. EPA, ''Potential to Emit for MACT Standards—Guidance on Timing Issues'' (May 16, 1995). EPA continues to believe that this policy best reflects the way Congress intended the MACT program to function. As a result, if you own or operate a major source subject to a MACT standard for which the initial compliance date has already passed, you cannot become a synthetic minor source for purposes of or otherwise avoid continuing to comply with that particular MACT standard.

issued pursuant to the part 71 program, the reviewing authority has the discretion to require you to submit a permit application for a synthetic minor source permit under this program within 1 year after the effective date of the final rule (that is, by September 4, 2012, and pursuant to 40 CFR 49.158), to require you to submit a permit application for a synthetic minor source permit under this program (pursuant to 40 CFR 49.158) at the same time that you apply to renew your part 71 permit or to allow you to continue to maintain synthetic minor status through your part 71 permit. If the reviewing authority requires you to obtain a synthetic minor source permit and/or a synthetic minor HAP source permit under this program (pursuant to 40 CFR 49.158), it also has the discretion to require any additional requirements, including control technology requirements, based on the specific circumstances of the source.

• If your existing synthetic minor source and/or synthetic minor HAP source was established through a mechanism other than those described in the preceding paragraphs, you must submit an application pursuant to 40 CFR 49.158 for a synthetic minor source permit within 1 year after the effective date of the final rule, that is, by September 4, 2012. The reviewing authority has the discretion to require any additional requirements, including control technology requirements, based on the specific circumstances of the source.

True minor sources.

• If you own or operate an existing true minor source in Indian country (as defined in 40 CFR 49.152(d)), you must register your source with your reviewing authority in your area within 18 months after the effective date of this program, that is, by March 1, 2013. If your true minor source commences construction in the time period after the effective date of this rule and September 2, 2014, you must also register your source with the reviewing authority in your area within 90 days after the source begins operation. You are exempt from this registration requirement if your source is subject to 40 CFR 49.138—''Rule for the registration of air pollution sources and the reporting of emissions.''

• If you wish to commence construction of a new true minor source or a modification at an existing true minor source that is subject to this program, you must obtain a permit pursuant to 40 CFR 49.154 and 49.155 (or a general permit pursuant to 40 CFR 49.156, if applicable) by the earlier of 6 months after the general permit for a source category is published in the **Federal Register** or on or after 36 months from the effective date of this rule, that is, September 2, 2014. The proposed new source or modification will be subject to the registration requirements of 40 CFR 49.160, except for sources that are subject to the registration requirements of 40 CFR 49.138—''Rule for the registration of air pollution sources and the reporting of emissions.''

VIII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action'' because it raises novel legal or policy issues arising out of legal mandates, the President's priorities or the principles set forth in the Executive Order. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action.

In addition, EPA prepared an analysis of the potential costs and impacts associated with this action. This rule is not considered economically significant because EPA estimates the total annualized costs of the rule to be substantially lower than $100 million.

Given that during the first three years following the rule's effective date, all new and modified sources are either required to register or request coverage under the general permit available for their source category (unless the source decides to apply for a site-specific permit at the time the source had to request coverage under that general permit), the EPA estimates lower bound [42] total annualized costs of the rule to be $4.6 million, including $2.3 million for industry and $2.3 million for the Agency ($2008) while upper bound [42] total annualized costs of this rule are estimated to be approximately $4.7 million per year, including $2.4 million for industry and $2.3 million for the Agency ($2008). After the first 36 months, total annualized costs for true minor sources would increase, since all new and modified true minor sources will have to apply for a site-specific permit or request coverage under a general permit. However, EPA believes that costs for sources choosing to request coverage under a general permit would remain low, as would cost for the Agency. This analysis is contained in the EIA for this final rule. A copy of the analysis is available in the docket for this action.

[42] ''Lower Bound'' costs in the Economic Impact Analysis (EIA) of this rule only include monitoring, recordkeeping and reporting costs computed under the conservative assumption that all facilities choose site-specific permitting (cost burden for development and implementation of general permits is unknown at this time). Under the ''Upper Bound'' cost estimates some facilities area assumed to be subject to BACT.

B. Paperwork Reduction Act

The information collection requirements in this rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* The information collection requirements are not enforceable until OMB approves them.

The information collection requirements resulting from this final rule are associated with certain records and reports that are necessary for the Tribal agency (or the EPA Administrator in non-delegated areas), for example, to: (1) Confirm the compliance status of stationary sources, (2) identify any stationary sources not subject to the standards and identify stationary sources subject to the rules, and (3) ensure that the stationary source control requirements are being achieved. The information would be used by the EPA or Tribal enforcement personnel to (1) identify stationary sources subject to the rules, (2) ensure that appropriate control technology is being properly applied, and (3) ensure that the emission control devices are being properly operated and maintained on a continuous basis. Based on the reported information, the delegate Tribes (or the EPA Administrator in non-delegated areas) can decide which plants, records or processes should be inspected.

The nonattainment major NSR rule would have little impact on existing major sources in Indian country because it would only affect such owners and operators if they propose a major modification and only one is expected during the first 6 years after promulgation (*See* the Economic Impact Analysis in the docket for this action for more information). In addition, the final rule would only result in an administrative change for new major sources in Indian country because, although the regulatory mechanism to issue permits is not yet available in the form of either a Federal nonattainment major NSR rule or a TIP, we are already required to implement the program in Indian country and have developed source-specific FIPs to do so. As a result, there would be no new or additional burden on industry.

With regard to the minor source permitting rule (including new minor

sources, minor modifications at minor sources, minor modifications at major sources and new synthetic minor sources), it is estimated that 4,326 new or modified facilities will be affected for the first 3 years after promulgation of the rule.

Minor sources will incur approximately 47,220 hours in monitoring, recordkeeping and reporting burden, incurring an estimated $549,402 ($2008) in burden during this 36 month period to complete registration or request coverage under a general permit. In addition, 32,970 existing true and synthetic minor sources will incur a one-time burden of 169,590 hours or an estimated $2.1 million, to complete registration for true minor sources and to secure new permits for existing synthetic minor sources. The Agency is estimated to incur 76,550 hours or $6.91 million ($2008) in burden to administer the minor source program during the first 3 years after rule promulgation. This Agency burden does not include costs associated with development and implementation of new general permits, as these costs are not known at this time. Burden is defined at 5 CFR 1320.3(b).

An agency may not conduct or sponsor and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in this final rule.

C. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations and small governmental jurisdictions.

For purposes of assessing the impacts of this final rule on small entities, ''small entity'' is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government or a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The small entities potentially regulated by this final rule in Indian country are:

- New and modified minor sources of regulated NSR pollutants;
- Sources of regulated NSR pollutants choosing to accept enforceable emission limitations to avoid major source regulations (synthetic minors);
- Sources of HAP choosing to accept enforceable emission limitations to avoid major source regulations (synthetic minors);
- Minor modifications to major sources of regulated NSR pollutants;
- New major sources of regulated NSR pollutants in nonattainment areas; and
- Major modifications to major sources of regulated NSR pollutants in nonattainment areas.

We have determined that the new major sources and major modifications at existing major sources in nonattainment areas will incur no incremental costs or will experience cost savings due to the final rule because the rule only changes the regulatory mechanism in which these sources can request a permit (it does not change the compliance requirements). The costs of the source-specific FIP (the alternative mechanism in the absence of this rule) would have been comparable to the estimated costs of complying with this rule. In addition, since the permitting process may be less uncertain under the final rule, new and modifying major sources could potentially experience cost savings compared to baseline conditions.

Therefore, the screening assessment focused on costs for new and modified minor sources, minor modifications at major sources and synthetic minor sources. To analyze potential impacts to small companies owning such sources, we first estimated the number of new sources that would be sited in Indian country over the period of 2011 through 2016. However, since data on minor sources in Indian country are generally very limited, we conducted an exhaustive search for information currently available from EPA databases, the Small Business Administration and EPA Regional Offices. We then collected data from the Economic Census (2002) on the number of establishments of each type in each state and allocated the establishments to Indian country based on Tribes' share of state income. Then, we projected the number of new minor sources of each type that would be created in Indian country by applying the estimated growth rate for American Indian/Alaska Native (AI/AN) population in each state to the estimated baseline number of sources in Indian country in the state. Over the 6-year period after the effective date of the rule (2011 through 2016), we estimate that 7,606 new minor sources will be created in Indian country.

Based on our analysis,[43], EPA also estimates that fewer than 20 percent of new minor sources in Indian country (20 percent of 7,606) will be owned by small businesses. Thus, we estimate that 1,521 new minor source facilities will be created in Indian country by small businesses during the first 6 years after promulgation. Additionally, we project that 197 of the total estimated 984 minor modifications to existing minor sources during the period 2011 through 2016 will occur at facilities owned by small businesses. Furthermore, we estimate that 10 synthetic minor sources owned by small businesses will be created during the period 2011 through 2016.

Finally, we estimate that 2 of the 12 major sources in Indian country that make a minor modification to their operations between 2011 and 2016 will be owned by small businesses. Table 2 summarizes the estimated number of affected facilities and small businesses and table 3 disaggregates this information by source category (NAICS code).

TABLE 2—PROJECTED NUMBER OF AFFECTED SMALL BUSINESSES

[2011 through 2016] [a]

Source type	Projected number of new and modified sources owned by small businesses
New Minor Sources	1,521
Modified Minor Sources	197
Synthetic Minor Sources ..	10
Minor Modifications to Major Sources	2

[43] We used data from financial databases to compute the share of companies in each sector that are owned by small businesses (based on the Small Business Administration small business size definitions at 13 CFR 121.201). We also examined the share of existing major and synthetic minor sources in Indian country that are owned by small businesses.

TABLE 2—PROJECTED NUMBER OF AFFECTED SMALL BUSINESSES—Continued

[2011 through 2016] [a]

Source type	Projected number of new and modified sources owned by small businesses
Total	1,730

[a] Based on Year 2008 dollars.

TABLE 3—SOURCE CATEGORIES FOR PROJECTED NUMBER OF AFFECTED SMALL BUSINESSES

NAICS	Sector description	New minor sources	Modified minor sources	Synthetic minor sources	Minor modifications to major sources	Total projected small businesses by sector
324121	Asphalt hot mix	1				1
811121	Auto body refinishing	4	6			10
3116	Beef Cattle Complex, Slaughter House and Meat Packing Plant.	1				1
3251	Chemical preparation	1				1
32711	Clay and ceramics operations (kilns).	4	1			5
327320	Concrete batching plant	1				1
211111	Crude Petroleum and Natural Gas Extraction.	1,402	150	3	2	1,557
22111	Electric power generation	1				1
3329	Fabricated metal products		1			1
3323	Fabricated structural metal		1			1
4471	Gasoline station (storage tanks, refueling).	19	7			26
424510	Grain Elevator	2	1			3
33311	Machinery manufacturing		3			3
221210	Natural Gas Distribution	1	1			2
21111	Oil and gas production/operations.	1				1
72112	Other (natural gas-fired boilers) [a].	11	10	7		28
323110	Printing operations (lithographic).	3	1			4
54171	Professional, Scientific and Technical Services.	3	1			4
212321	Sand and Gravel Mining	1	1			2
238990	Sand and shot blasting operations.	3	1			4
321113	Sawmills	1	1			2
221320	Sewage treatment facilities	1				1
562212	Solid Waste Landfill	1				1
332812	Surface coating operations	5	3			8
	Other (costs not estimated) [b]	54	8			62
Total		1,521	197	10	2	1,730

[a] For small business analysis, used NAICS code designated for casino hotels. However, the projected new and modified sources listed under ''other (natural gas-fired boilers)'' include not only boilers at casino hotels, but also new sources listed as ''boilers'' and new Tribal government facilities assumed to have natural gas-fired boilers.

[b] Includes source categories such as crematories, restaurants, car dealers and social assistance.

To conduct our screening analysis of impacts [44] on small businesses, we compared the estimated costs of

[44] This small entity impact assessment does not reflect the final revisions to the rule's provisions. At the time this analysis was conducted, we planned to delay the implementation date of the rule for true minor sources that might be subject to the minor NSR program for a period of 18 months from the rule's effective date (60 days after the final rule is published). However, to address commenters' concerns about EPA's ability to implement this NSR permitting program in a timely manner and to provide additional time for EPA Regions to prepare for their duties as the Federal permitting authority, including the development of additional permitting tools, we have extended the implementation date of the rule for true minor sources to 36 months from the effective date of this final rule. In addition, sources eligible to seek coverage under a general permit will be subject to that general permit 4 months after the general permit is effective (6 months after the general permit is published in the **Federal Register**) unless the source decides to apply for a site-specific permit at the time the source had to request coverage under that general permit. Therefore, since we are reducing the permitting requirements during the initial 36-month period after the effective date of the rule, we expect the actual impacts to be lower than those reported here.

compliance for each type of source in each sector with typical small business sales in each sector.

Our analysis estimates that small businesses investing in new minor source facilities, minor modifications to existing minor sources, minor modifications to existing major sources and new synthetic minor sources over the period 2011 through 2016 will incur costs that are less than 1 percent of average small company sales revenues for most sectors, but small companies choosing to invest in new auto body refinishing plants, concrete batching plants, sawmills, solid waste landfills, sand and gravel mines and sand and shot blasting operations have the potential to incur costs between 1 percent and 3 percent of sales under upper bound cost estimates. The EPA estimates that at most 20 new and modified sources would be owned by small businesses in these sectors (new auto body refinishing plants, concrete batching plants, sawmills, solid waste landfills, sand and gravel mines and sand and shot blasting operations) during the first 6 years following the effective date of the rule. Because this is a small number of facilities and because EPA believes that very few new sources will incur upper bound costs, this is considered an over-estimate of the potential small business impacts. Thus, EPA does not believe that the rule will impose significant economic impacts on a substantial number of small businesses owning new or modified minor sources.

Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA has tried to reduce the impact of this rule on small entities. We are not requiring existing minor sources to obtain a permit once the rule is effective, but we are requiring them to register within 18 months after the rule's effective date or 90 days after the source begins operation. In addition, we are delaying the implementation of the rule for new and modified minor sources to the earlier of 4 months after the effective date of a general permit (6 months after the final permit is published) or 36 months after the rule's effective date, that is, September 2, 2014, to provide adequate time for the regulated entities and us, the reviewing authority, to prepare for the implementation of this rule.

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures of $100 million or more for state, local and Tribal governments, in the aggregate or the private sector in any 1 year.

The EPA cost estimates lower bound total annualized costs of the rule to be $4.6 million, including $2.3 million for industry and $2.3 million for the Agency ($2008) while upper bound total annualized costs of this rule were estimated to be approximately $4.7 million per year, including $2.4 million for industry and $2.3 million for the Agency ($2008). After the first three years following the rule's effective date, total annualized costs for true minor sources would increase since all new and modified true minor sources will have to apply for a site-specific permit or request coverage under a general permit. However, EPA believes that costs for sources choosing to request coverage under a general permit would remain low, as would cost for the Agency. Agency costs do not include the costs of developing general permits, as these costs are unknown at this time. Thus, this rule is not subject to the requirements of sections 202 or 205 of the Unfunded Mandates Reform Act (UMRA).

This rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This rule has no requirements applicable to small governments and as such does not impose obligations upon them.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule has no requirements applicable to states. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132 and consistent with EPA policy to promote communications between EPA and state and local governments, EPA specifically solicited comment on the proposed rule from state and local officials. To that end, we had two meetings with the STAPPA/ALAPCO[45] to present the draft preamble and rule. We also met with the National Federation of Independent Business and provided outreach material through EPA's Small Business Ombudsman's office to get input from the small businesses that might be affected by this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Subject to the Executive Order 13175 (65 FR 67249, November 9, 2000) EPA may not issue a regulation that has Tribal implications, that imposes substantial direct compliance costs and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by Tribal governments or EPA consults with Tribal officials early in the process of developing the proposed regulation and develops a Tribal summary impact statement.

The EPA has concluded that this action will have Tribal implications. However, it will neither impose substantial direct compliance costs on Tribal governments, nor preempt Tribal law. This action provides two preconstruction air permitting rules for stationary sources in Indian Country, but these rules will neither impose substantial direct compliance costs on Tribal governments nor preempt Tribal law because these rules will be implemented by EPA or a delegate Tribal agency that has requested to assist EPA with administration of the rules, until replaced by an EPA-approved Tribal implementation plan. Nonetheless, EPA conducted substantial outreach and consultation with Tribal officials and other Tribal representatives and has incorporated Tribal views, throughout the course of developing these rules. *See* section III.D of this final rule preamble for more details on our Tribal outreach and consultation efforts.

G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This action is not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not likely to have a

[45] This organization has since changed its name to the National Association of Clean Air Agencies (NACAA).

significant adverse effect on the supply, distribution or use of energy. The number of projected new sources in the energy sector due to this rule is a small share (about 1 percent) of the total number of energy sector facilities nationwide. Therefore, EPA does not believe that this action will have a significant effect on energy production. In addition, EPA's cost analysis, presented in the Economic Impact Analysis (EIA), estimates the total annualized cost of the rule will be substantially less than the $100 million cost and/or benefits trigger identified in EO 12866 and thus this action is not considered an ''economically significant regulatory action.'' With the final rule not being a economically significant regulatory action, it is not considered a significant energy action.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations (which are persons living in Indian country) without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. Indeed, EPA believes that the two preconstruction air quality regulations in this FIP would provide regulatory certainty and fill a regulatory gap in Indian country and result in emissions reductions from sources complying with these regulations. Consequently, the regulations are expected to result in health benefits to persons living in Indian country, many of whom live in low-income and minority communities.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective 60 days from the date of publication, *i.e.,* on August 30, 2011.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit by August 30, 2011 Any such judicial review is limited to only those objections that are raised with reasonable specificity in timely comments. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. Under section 307(b)(2) of the Act, the requirements of this final action may not be challenged later in civil or criminal proceedings brought by us to enforce these requirements.

IX. Statutory Authority

The statutory authority for this action is provided by sections 101, 110, 112, 114, 116 and 301 of the Act as amended (42. U.S.C. 7401, 7410, 7412, 7414, 7416 and 7601).

List of Subjects

40 CFR Part 49

Administrative practices and procedures, Air pollution control, Environmental protection, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 51

Administrative practices and procedures, Air pollution control, Environmental protection, Intergovernmental relations.

Dated: June 10, 2011.

Lisa P. Jackson,

Administrator.

For the reasons cited in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 49—[AMENDED]

■ 1. The authority citation for part 49 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart C—[AMENDED]

■ 2. Add an undesignated center heading and §§ 49.151 through 49.161 to subpart C to read as follows:

Federal Minor New Source Review Program in Indian Country

* * * * *

Sec.

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§ 49.151 Program overview.

(a) *What constitutes the Federal minor new source review (NSR) program in Indian country?* As set forth in this Federal Implementation Plan (FIP), the Federal minor NSR program in Indian country (or ''program'') consists of §§ 49.151 through 49.165.

(b) *What is the purpose of this program?* This program has the following purposes:

(1) It establishes a preconstruction permitting program for new and modified minor sources (minor sources) and minor modifications at major sources located in Indian country to meet the requirements of section 110(a)(2)(C) of the Act.

(2) It establishes a registration system that will allow the reviewing authority to develop and maintain a record of minor source emissions in Indian country.

(3) It provides a mechanism for an otherwise major source to voluntarily accept restrictions on its potential to emit to become a synthetic minor source. This mechanism may also be used by an otherwise major source of HAPs to voluntarily accept restrictions on its potential to emit to become a synthetic minor HAP source. Such restrictions must be enforceable as a practical matter.

(4) It provides an additional mechanism for case-by-case maximum achievable control technology (MACT) determinations for those major sources of HAPs subject to such determinations under section 112(g)(2) of the Act.

(5) It sets forth the criteria and procedures that the reviewing authority (as defined in § 49.152(d)) will use to administer the program.

(c) *When and where does this program apply?*

(1) The provisions of this program apply in Indian country where there is no EPA-approved minor NSR program, according to the following implementation schedule:

(i) *Existing major sources.*

(A) If you wish to commence construction of a minor modification at an existing major source on or after August 30, 2011, you must obtain a permit pursuant to §§ 49.154 and 49.155 (or a general permit pursuant to § 49.156, if applicable) prior to commencing construction.

(B) If you wish to obtain a synthetic minor source permit pursuant § 49.158 to establish a synthetic minor source and/or a synthetic minor HAP source at your existing major source, you may submit a synthetic minor source permit application on or after August 30, 2011. However, if your permit application for a synthetic minor source and/or synthetic minor HAP source pursuant to the FIPs for reservations in Idaho, Oregon and Washington has been determined complete prior to August 30, 2011, you do not need to apply for a synthetic minor source permit under this program.

(ii) *Synthetic minor sources.*

(A) If you wish to commence construction of a new synthetic minor source and/or a new synthetic minor HAP source or a modification at an existing synthetic minor source and/or synthetic minor HAP source on or after August 30, 2011, you must obtain a permit pursuant to § 49.158 prior to commencing construction.

(B) If your existing synthetic minor source and/or synthetic minor HAP source was established pursuant to the FIPs applicable to the Indian reservations in Idaho, Oregon and Washington or was established under an EPA-approved rule or permit program limiting potential to emit, you do not need to take any action under this program unless you propose a modification for this existing synthetic minor source and/or synthetic minor HAP source, on or after the effective date of this rule, that is, on or after August 30, 2011. For these modifications, you need to obtain a permit pursuant to § 49.158 prior to commencing construction.

(C) If your existing synthetic minor source and/or synthetic minor HAP source was established under a permit with enforceable emissions limitations issued pursuant to part 71 of this chapter, the reviewing authority has the discretion to require you to submit a permit application for a synthetic minor source permit under this program by September 4, 2012 and pursuant to § 49.158, to require you to submit a permit application for a synthetic minor source permit under this program (pursuant to § 49.158) at the same time that you apply to renew your part 71 permit or to allow you to continue to maintain synthetic minor status through your part 71 permit. If the reviewing authority requires you to obtain a synthetic minor source permit and/or synthetic minor HAP source permit under this program (pursuant to § 49.158) it also has the discretion to require any additional requirements, including control technology requirements, based on the specific circumstances of the source.

(D) If your existing synthetic minor source and/or synthetic minor HAP source was established through a mechanism other than those described in paragraphs (c)(1)(ii)(B) and (C) of this section, you must submit an application pursuant to § 49.158 for a synthetic minor source permit under this program by September 4, 2012. The reviewing authority has the discretion to require any additional requirements, including control technology requirements, based on the specific circumstances of the source.

(iii) *True minor sources.*

(A) If you own or operate an existing true minor source in Indian country (as defined in 40 CFR 49.152(d)), you must register your source with your reviewing authority in your area within 18 months after the effective date of this program, that is, by March 1, 2013. If your true minor source commences construction in the time period after the effective date of this rule and September 2, 2014, you must also register your source with the reviewing authority in your area within 90 days after the source begins operation. You are exempt from this registration requirement if your source is subject to § 49.138—''Rule for the registration of air pollution sources and the reporting of emissions.''

(B) If you wish to commence construction of a new true minor source or a modification at an existing true minor source that is subject to this program, you must obtain a permit pursuant to §§ 49.154 and 49.155 (or a general permit pursuant to § 49.156, if applicable) by the earlier of 6 months after the general permit for a source category is published in the **Federal Register** or on or after 36 months from the effective date of this rule, that is, September 2, 2014. The proposed new source or modification will also be subject to the registration requirements of § 49.160, except for sources that are subject to § 49.138.

(2) The provisions of this program or portions of this program cease to apply in an area covered by an EPA-approved Tribal implementation plan on the date that our approval of that implementation plan becomes effective, provided that the implementation plan includes provisions that comply with the requirements of section 110(a)(2)(C) of the Act for the construction and modification of minor sources and minor modifications at major sources. Permits previously issued under this program will remain in effect and be enforceable as a practical matter until and unless the Tribe issues new permits to these sources based on the provisions of the EPA-approved Tribal implementation plan.

(d) *What general provisions apply under this program?* The following general provisions apply to you as an owner/operator of a minor source:

(1) If you commence construction of a new source or modification that is subject to this program after the applicable date specified in paragraph (c) of this section without applying for and receiving a permit pursuant to this program, you will be subject to appropriate enforcement action.

(2) If you do not construct or operate your source or modification in accordance with the terms of your

minor NSR permit, you will be subject to appropriate enforcement action.

(3) If you are subject to the registration requirements of this program, you must comply with those requirements.

(4) Issuance of a permit does not relieve you of the responsibility to comply fully with applicable provisions of any EPA-approved implementation plan or FIP and any other requirements under applicable law.

(5) Nothing in this program prevents a Tribe from administering a minor NSR permit program with different requirements in an approved Tribal Implementation Plan (TIP) as long as the TIP does not interfere with any applicable requirement of the Act.

(e) *What is the process for issuing permits under this program?* For the reviewing authority to issue a final permit decision under this program (other than a general permit under § 49.156 or a synthetic minor source permit under § 49.158), all the actions listed in paragraphs (e)(1) through (8) of this section need to be completed. The processes for issuing general permits and synthetic minor source permits are set out in § 49.156 and § 49.158, respectively.

(1) You must submit a permit application that meets the requirements of § 49.154(a).

(2) The reviewing authority determines completeness of the permit application as provided in § 49.154(b) within 45 days of receiving the application (60 days for minor modifications at major sources).

(3) The reviewing authority determines the appropriate emission limitations and permit conditions for your affected emissions units under § 49.154(c).

(4) The reviewing authority may require you to submit an Air Quality Impact Analysis (AQIA) if it has reason to be concerned that the construction of your minor source or modification would cause or contribute to a NAAQS or PSD increment violation.

(5) If an AQIA is submitted, the reviewing authority determines that the new or modified source will not cause or contribute to a NAAQS or PSD increment violation.

(6) The reviewing authority develops a draft permit that meets the permit content requirements of § 49.155(a).

(7) The reviewing authority provides for public participation, including a 30-day period for public comment, according to the requirements of § 49.157.

(8) The reviewing authority either issues a final permit that meets the requirements of § 49.155(a) or denies the permit and provides reasons for the denial, within 135 days (or within 1 year for minor modifications at major sources) after the date the application is deemed complete and all additional information necessary to make an informed decision has been provided.

§ 49.152 Definitions.

(a) For sources of regulated NSR pollutants in nonattainment areas, the definitions in § 49.167 apply to the extent that they are used in this program (except for terms defined in paragraph (d) of this section).

(b) For sources of regulated NSR pollutants in attainment or unclassifiable areas, the definitions in § 52.21 of this chapter apply to the extent that they are used in this program (except for terms defined in paragraph (d) of this section).

(c) For sources of HAP, the definitions in § 63.2 of this chapter apply to the extent that they are used in this program (except for terms defined in paragraph (d) of this section).

(d) The following definitions also apply to this program:

Affected emissions units means the following emissions units, as applicable:

(1) For a proposed new minor source, all the emissions units.

(2) For a proposed modification, the new, modified and replacement emissions units involved in the modification.

Allowable emissions means ''allowable emissions'' as defined in § 52.21(b)(16) of this chapter, except that the allowable emissions for any emissions unit are calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

Emission limitation means a requirement established by the reviewing authority that limits the quantity, rate or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emissions reduction and any design standard, equipment standard, work practice, operational standard or pollution prevention technique.

Enforceable as a practical matter means that an emission limitation or other standard is both legally and practicably enforceable as follows:

(1) An emission limitation or other standard is legally enforceable if the reviewing authority has the right to enforce it.

(2) Practical enforceability for an emission limitation or for other standards (design standards, equipment standards, work practices, operational standards, pollution prevention techniques) in a permit for a source is achieved if the permit's provisions specify:

(i) A limitation or standard and the emissions units or activities at the source subject to the limitation or standard;

(ii) The time period for the limitation or standard (*e.g.,* hourly, daily, monthly and/or annual limits such as rolling annual limits); and

(iii) The method to determine compliance, including appropriate monitoring, recordkeeping, reporting and testing.

(3) For rules and general permits that apply to categories of sources, practical enforceability additionally requires that the provisions:

(i) Identify the types or categories of sources that are covered by the rule or general permit;

(ii) Where coverage is optional, provide for notice to the reviewing authority of the source's election to be covered by the rule or general permit; and

(iii) Specify the enforcement consequences relevant to the rule or general permit.

Environmental Appeals Board means the Board within the EPA described in § 1.25(e) of this chapter.

Indian country, as defined in 18 U.S.C. 1151, means the following:

(1) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation; [1]

(2) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a state; and

(3) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Indian governing body means the governing body of any Tribe, band or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

Minor modification at a major source means a modification at a major source that does not qualify as a major modification under § 49.167 or § 52.21 of this chapter, as applicable.

[1] Under this definition, EPA treats as reservations trust lands validly set aside for the use of a tribe even if the trust lands have not been formally designated as a reservation.

Minor NSR threshold means any of the applicability cutoffs for this program listed in Table 1 of § 49.153.

Minor source means, for purposes of this rule, a source, not including the exempt emissions units and activities listed in § 49.153(c), that has the potential to emit regulated NSR pollutants in amounts that are less than the major source thresholds in § 49.167 or § 52.21 of this chapter, as applicable, but equal to or greater than the minor NSR thresholds in § 49.153. The potential to emit includes fugitive emissions, to the extent that they are quantifiable, only if the source belongs to one of the source categories listed in part 51, Appendix S, paragraph II.A.4(iii) or § 52.21(b)(1)(iii) of this chapter, as applicable.

Modification means any physical or operational change at a source that would cause an increase in the allowable emissions of a minor source or an increase in the actual emissions (based on the applicable test under the major NSR program) of a major source for any regulated NSR pollutant or that would cause the emission of any regulated NSR pollutant not previously emitted. Allowable emissions of a minor source include fugitive emissions, to the extent that they are quantifiable, only if the source belongs to one of the source categories listed in part 51, Appendix S, paragraph II.A.4(iii) or § 52.21(b)(1)(iii) of this chapter, as applicable. The following exemptions apply:

(1) A physical or operational change does not include routine maintenance, repair or replacement.

(2) An increase in the hours of operation or in the production rate is not considered an operational change unless such change is prohibited under any permit condition that is enforceable as a practical matter.

(3) A change in ownership at a stationary source.

(4) The emissions units and activities listed in § 49.153(c).

Potential to emit means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable as a practical matter. Secondary emissions, as defined at § 52.21(b)(18) of this chapter, do not count in determining the potential to emit of a source.

Reviewing authority means the Administrator or may mean an Indian Tribe in cases where a Tribal agency is assisting EPA with administration of the program through a delegation.

Synthetic minor HAP source means a source that otherwise has the potential to emit HAPs in amounts that are at or above those for major sources of HAP in § 63.2 of this chapter, but that has taken a restriction so that its potential to emit is less than such amounts for major sources. Such restrictions must be enforceable as a practical matter.

Synthetic minor source means a source that otherwise has the potential to emit regulated NSR pollutants in amounts that are at or above those for major sources in § 49.167, § 52.21 or § 71.2 of this chapter, as applicable, but that has taken a restriction so that its potential to emit is less than such amounts for major sources. Such restrictions must be enforceable as a practical matter.

True minor source means a source, not including the exempt emissions units and activities listed in § 49.153(c), that emits or has the potential to emit regulated NSR pollutants in amounts that are less than the major source thresholds in § 49.167 or § 52.21 of this chapter, as applicable, but equal to or greater than the minor NSR thresholds in § 49.153, without the need to take an enforceable restriction to reduce its potential to emit to such levels. That is, a *true minor source* is a minor source that is not a synthetic minor source. The potential to emit includes fugitive emissions, to the extent that they are quantifiable, only if the source belongs to one of the source categories listed in part 51, Appendix S, paragraph II.A.4(iii) or § 52.21(b)(1)(iii) of this chapter, as applicable.

§ 49.153 Applicability.

(a) *Does this program apply to me?* The requirements of this program apply to you as set out in paragraphs (a)(1) through (4) of this section.

(1) *New and modified sources.* The applicability of the preconstruction review requirements of this program is determined individually for each regulated NSR pollutant that would be emitted by your new or modified source. For each such pollutant, determine applicability as set out in the relevant paragraph (a)(1)(i) or (ii) of this section.

(i) *New source.* Use the following steps to determine applicability for each regulated NSR pollutant.

(A) *Step 1.* Determine whether your proposed source's potential to emit the pollutant that you are evaluating is subject to review under the applicable major NSR program (that is, under § 52.21 of this chapter, under the Federal major NSR program for nonattainment areas in Indian country at §§ 49.166 through 49.175 or under a program approved by the Administrator pursuant to § 51.165 or § 51.166 of this chapter). If not, go to Step 2 (paragraph (a)(1)(i)(B) of this section).

(B) *Step 2.* Determine whether your proposed source's potential to emit the pollutant that you are evaluating, (including fugitive emissions, to the extent they are quantifiable, only if the source belongs to one of the source categories listed pursuant to section 302(j) of the Act), is equal to or greater than the corresponding minor NSR threshold in Table 1 of this section. If it is, you are subject to the preconstruction requirements of this program for that pollutant.

(ii) *Modification at an existing source.* Use the following steps to determine applicability for each regulated NSR pollutant.

(A) *Step 1.* For the pollutant being evaluated, determine whether your proposed modification is subject to review under the applicable major NSR program. If the modification at your existing major source does not qualify as a major modification under that program based on the actual-to-projected-actual test, it is considered a minor modification and is subject to the minor NSR program requirements, if the net emissions increase from the actual-to-projected-actual test is equal to or exceeds the minor NSR threshold listed in Table 1 of this section. For a modification at your existing minor source go to Step 2 (paragraph (a)(1)(ii)(B) of this section).

(B) *Step 2.* Determine whether the increase in allowable emissions from the proposed modification (calculated using the procedures of paragraph (b) of this section) would be equal to or greater than the minor NSR threshold in Table 1 of this section for the pollutant that you are evaluating. If it is, you are subject to the preconstruction requirements of this program for that pollutant. If not, go to Step 3 (paragraph (a)(1)(ii)(C) of this section).

(C) *Step 3.* If any of the emissions units affected by your proposed modification result in an increase in an annual allowable emissions limit for the pollutant that you are evaluating, the proposed modification is subject to paragraph (a)(2) of this section. If not, your proposed modification is not subject to this program.

(2) *Increase in an emissions unit's annual allowable emissions limit.* If you propose a physical or operational change at your minor or major source

that would increase an emissions unit's allowable emissions of a regulated NSR pollutant above its existing annual allowable emissions limit, you must obtain a permit revision to reflect the increase in the limit prior to making the change. For a physical or operational change that is not otherwise subject to review under major NSR or under this program, such increase in the annual allowable emissions limit may be accomplished through an administrative permit revision as provided in § 49.159(f).

(3) *Synthetic minor source permits.*

(i) If you own or operate an existing major source and you wish to obtain a synthetic minor source permit pursuant to § 49.158 to establish a synthetic minor source and/or a synthetic minor HAP source, you may submit a synthetic minor source permit application on or after August 30, 2011. However, if your permit application for a synthetic minor source and/or synthetic minor HAP source pursuant to the FIPs for reservations in Idaho, Oregon and Washington has been determined complete prior to August 30, 2011, you do not need to apply for a synthetic minor source permit under this program.

(ii) If you wish to commence construction of a new synthetic minor source and/or a new synthetic minor HAP source or a modification at an existing synthetic minor source and/or synthetic minor HAP source, on or after August 30, 2011, you must obtain a permit pursuant to § 49.158 prior to commencing construction.

(iii) If you own or operate a synthetic minor source or synthetic minor HAP source that was established prior to the effective date of this rule (that is, prior to August 30, 2011) pursuant to the FIPs applicable to the Indian reservations in Idaho, Oregon and Washington or under an EPA-approved rule or permit program limiting potential to emit, you do not need to take any action under this program unless you propose a modification for this existing synthetic minor source and/or synthetic minor HAP source, on or after the effective date of this rule, that is, on or after August 30, 2011. For these modifications, you need to obtain a permit pursuant to § 49.158 prior to commencing construction.

(iv) If you own or operate a synthetic minor source or synthetic minor HAP source that was established prior to the effective date of this rule (that is, prior to August 30, 2011) through a permit with enforceable emissions limitations issued pursuant to the operating permit program in part 71 of this chapter, the reviewing authority has the discretion to require you to apply for a synthetic minor source permit under § 49.158 of this program by September 4, 2012 or at the time of part 71 permit renewal or allow you to maintain synthetic minor status through your part 71 permit.

(v) For all other synthetic minor sources or synthetic minor HAP sources that obtained synthetic minor status or synthetic minor source permits through a mechanism other than those described in paragraphs (a)(3)(iii) and (iv) of this section, you must submit an application for a synthetic minor source permit under this program by September 4, 2012 under § 49.158.

(4) *Case-by-case maximum achievable control technology (MACT) determinations.* If you propose to construct or reconstruct a major source of HAPs such that you are subject to a case-by-case MACT determination under section 112(g)(2) of the Act, you may elect to have this determination approved under the provisions of this program (other options for such determinations include a title V permit action or a Notice of MACT Approval under § 63.43 of this chapter). If you elect this option, you still must comply with the requirements of § 63.43 of this chapter that apply to all case-by-case MACT determinations.

(b) *How do I determine the increase in allowable emissions from a physical or operational change at my source?* Determine the resulting increase in allowable emissions in tons per year (tpy) of each regulated NSR pollutant after considering all increases from the change. A physical or operational change may involve one or more emissions units. The total increase in allowable emissions resulting from your proposed change, including fugitive emissions, to the extent they are quantifiable, only if your source belongs to one of the source categories listed pursuant to section 302(j) of the Act, would be the sum of the following:

(1) For each new emissions unit that is to be added, the emissions increase would be the potential to emit of the emissions unit.

(2) For each emissions unit with an allowable emissions limit that is to be changed or replaced, the emissions increase would be the allowable emissions of the emissions unit after the change or replacement minus the allowable emissions prior to the change or replacement. However, this may not be a negative value. If the allowable emissions of an emissions unit would be reduced as a result of the change or replacement, use zero in the calculation.

(3) For each unpermitted emissions unit (a unit without any enforceable permit conditions) that is to be changed or replaced, the emissions increase is the allowable emissions of the emissions unit after the change or replacement minus the potential to emit prior to the change or replacement. However, this may not be a negative value. If an emissions unit's post-change allowable emissions would be less than its pre-change potential to emit, use zero in the calculation.

(c) *What emissions units and activities are exempt from this program?*

This program does not apply to the following emissions units and activities at a source that are listed in paragraphs (c)(1) through (7) of this section.

(1) Mobile sources.

(2) Ventilating units for comfort that do not exhaust air pollutants into the ambient air from any manufacturing or other industrial processes

(3) Noncommercial food preparation.

(4) Consumer use of office equipment and products.

(5) Janitorial services and consumer use of janitorial products.

(6) Internal combustion engines used for landscaping purposes.

(7) Bench scale laboratory activities, except for laboratory fume hoods or vents.

TABLE 1 TO § 49.153—MINOR NSR THRESHOLDS [a]

Regulated NSR pollutant	Minor NSR thresholds for nonattainment areas (tpy)	Minor NSR thresholds for attainment areas (tpy)
Carbon monoxide (CO)	5	10
Nitrogen oxides (NO_X)	5 [b]	10
Sulfur dioxide (SO_2)	5	10
Volatile Organic Compounds (VOC)	2 [b]	5

TABLE 1 TO § 49.153—MINOR NSR THRESHOLDS [a]—Continued

Regulated NSR pollutant	Minor NSR thresholds for nonattainment areas (tpy)	Minor NSR thresholds for attainment areas (tpy)
PM	5	10
PM_{10}	1	5
$PM_{2.5}$	0.6	3
Lead	0.1	0.1
Fluorides	NA	1
Sulfuric acid mist	NA	2
Hydrogen sulfide (H_2S)	NA	2
Total reduced sulfur (including H_2S)	NA	2
Reduced sulfur compounds (including H_2S)	NA	2
Municipal waste combustor emissions	NA	2
Municipal solid waste landfill emissions (measured as nonmethane organic compounds)	NA	10

[a] If part of a Tribe's area of Indian country is designated as attainment and another part as nonattainment, the applicable threshold for a proposed source or modification is determined based on the designation where the source would be located. If the source straddles the two areas, the more stringent thresholds apply.

[b] In extreme ozone nonattainment areas, section 182(e)(2) of the Act requires any change at a major source that results in any increase in emissions to be subject to major NSR permitting. In other words, any changes to existing major sources in extreme ozone nonattainment areas are subject to a "0" tpy threshold, but that threshold does not apply to minor sources.

§ 49.154 Permit application requirements.

This section applies to you if you are subject to this program under § 49.153(a) for the construction of a new minor source, synthetic minor source or a modification at an existing source.

(a) *What information must my permit application contain?* Paragraphs (a)(1) through (3) of this section govern the content of your application.

(1) *General provisions for permit applications.* The following provisions apply to permit applications under this program:

(i) The reviewing authority may develop permit application forms for your use.

(ii) The permit application need not contain information on the exempt emissions units and activities listed in § 49.153(c).

(iii) The permit application for a modification need only include information on the affected emissions units as defined in § 49.152(d).

(2) *Required permit application content.* Except as specified in paragraphs (a)(1)(ii) and (iii) of this section, you must include the information listed in paragraphs (a)(2)(i) through (ix) of this section in your application for a permit under this program. The reviewing authority may require additional information as needed to process the permit application.

(i) Identifying information, including your name and address (and plant name and address if different) and the name and telephone number of the plant manager/contact.

(ii) A description of your source's processes and products.

(iii) A list of all affected emissions units (with the exception of the exempt emissions units and activities listed in § 49.153(c)).

(iv) For each new emissions unit that is listed, the potential to emit of each regulated NSR pollutant in tpy (including fugitive emissions, to the extent that they are quantifiable, if the emissions unit or source is in one of the source categories listed in part 51, Appendix S, paragraph II.A.4(iii) or § 52.21(b)(1)(iii) of this chapter, as applicable), with supporting documentation. In your calculation of the potential to emit for an emissions unit, you must account for any proposed emission limitations.

(v) For each modified emissions unit and replacement unit that is listed, the allowable emissions of each regulated NSR pollutant in tpy both before and after the modification (including fugitive emissions, to the extent that they are quantifiable, if the emissions unit or source belongs to one of the source categories listed in part 51, Appendix S, paragraph II.A.4(iii) or § 52.21(b)(1)(iii) of this chapter, as applicable), with supporting documentation. For emissions units that do not have an allowable emissions limit prior to the modification, report the potential to emit. In your calculation of annual allowable emissions for an emissions unit after the modification, you must account for any proposed emission limitations.

(vi) The following information to the extent it is needed to determine or regulate emissions: Fuels, fuel use, raw materials, production rates and operating schedules.

(vii) Identification and description of any existing air pollution control equipment and compliance monitoring devices or activities.

(viii) Any existing limitations on source operation affecting emissions or any work practice standards, where applicable, for all NSR regulated pollutants at the source.

(ix) For each emission point associated with an affected emissions unit, provide stack or vent dimensions and flow information.

(3) *Optional permit application content.* At your option, you may propose emission limitations for each affected emissions unit, which may include pollution prevention techniques, air pollution control devices, design standards, equipment standards, work practices, operational standards or a combination thereof. You may include an explanation of why you believe the proposed emission limitations to be appropriate.

(b) *How is my permit application determined to be complete?* Paragraphs (b)(1) through (3) of this section govern the completeness review of your permit application.

(1) An application for a permit under this program will be reviewed by the reviewing authority within 45 days of its receipt (60 days for minor modifications at major sources) to determine whether the application contains all the information necessary for processing the application.

(2) If the reviewing authority determines that the application is not complete, it will request additional information from you as necessary to process the application. If the reviewing authority determines that the application is complete, it will notify you in writing. The reviewing

authority's completeness determination or request for additional information should be postmarked within 45 days of receipt of the permit application by the reviewing authority (60 days for minor modifications at major sources). If you do not receive a request for additional information or a notice of complete application postmarked within 45 days of receipt of the permit application by the reviewing authority (60 days for minor modifications at major sources), your application will be deemed complete.

(3) If, while processing an application that has been determined to be complete, the reviewing authority determines that additional information is necessary to evaluate or take final action on the application, it may request additional information from you and require your responses within a reasonable time period.

(4) Any permit application will be granted or denied no later than 135 days (1 year for minor modifications at major sources) after the date the application is deemed complete and all additional information necessary to make an informed decision has been provided.

(c) *How will the reviewing authority determine the emission limitations that will be required in my permit?* After determining that your application is complete, the reviewing authority will conduct a case-by-case control technology review to determine the appropriate level of control, if any, necessary to assure that NAAQS are achieved, as well as the corresponding emission limitations for the affected emissions units at your source.

(1) In carrying out this case-by-case control technology review, the reviewing authority will consider the following factors:

(i) Local air quality conditions.

(ii) Typical control technology or other emissions reduction measures used by similar sources in surrounding areas.

(iii) Anticipated economic growth in the area.

(iv) Cost-effective emission reduction alternatives.

(2) The reviewing authority must require a numerical limit on the quantity, rate or concentration of emissions for each regulated NSR pollutant emitted by each affected emissions unit at your source for which such a limit is technically and economically feasible.

(3) The emission limitations required by the reviewing authority may consist of numerical limits on the quantity, rate or concentration of emissions; pollution prevention techniques; design standards; equipment standards; work practices; operational standards; requirements relating to the operation or maintenance of the source or any combination thereof.

(4) The emission limitations required by the reviewing authority must assure that each affected emissions unit will comply with all requirements of parts 60, 61 and 63 of this chapter as well as any FIPs or TIPs that apply to the unit.

(5) The emission limitations required by the reviewing authority must not be affected in a manner by so much of a stack's height as exceeds good engineering practice or by any other dispersion technique, except as provided in § 51.118(b) of this chapter. If the reviewing authority proposes to issue a permit to a source based on a good engineering practice stack height that exceeds the height allowed by § 51.100(ii)(1) or (2) of this chapter, it must notify the public of the availability of the demonstration study and must provide opportunity for a public hearing according to the requirements of § 49.157 for the draft permit.

(d) *When may the reviewing authority require an air quality impacts analysis (AQIA)?* Paragraphs (d)(1) through (3) of this section govern AQIA requirements under this program.

(1) If the reviewing authority has reason to be concerned that the construction of your minor source or modification would cause or contribute to a NAAQS or PSD increment violation, it may require you to conduct and submit an AQIA.

(2) If required, you must conduct the AQIA using the dispersion models and procedures of part 51, Appendix W of this chapter.

(3) If the AQIA reveals that construction of your source or modification would cause or contribute to a NAAQS or PSD increment violation, the reviewing authority must require you to reduce or mitigate such impacts before it can issue you a permit.

§ 49.155 Permit requirements.

This section applies to your permit if you are subject to this program under § 49.153(a) for construction of a new minor source, synthetic minor source or a modification at an existing source.

(a) *What information must my permit include?* Your permit must include the requirements in paragraphs (a)(1) through (7) of this section.

(1) *General requirements.* The permit must include the following elements:

(i) The effective date of the permit and the date by which you must commence construction in order for your permit to remain valid (*i.e.,* 18 months after the permit effective date).

(ii) The emissions units subject to the permit and their associated emission limitations.

(iii) Monitoring, recordkeeping, reporting and testing requirements to assure compliance with the emission limitations.

(2) *Emission limitations.* The permit must include the emission limitations determined by the reviewing authority under § 49.154(c) for each affected emissions unit. In addition, the permit must include an annual allowable emissions limit for each affected emissions unit and for each regulated NSR pollutant emitted by the unit if the unit is issued an enforceable emission limitation lower than the potential to emit of that unit.

(3) *Monitoring requirements.* The permit must include monitoring requirements sufficient to assure compliance with the emission limitations and annual allowable emissions limits that apply to the affected emissions units at your source. The reviewing authority may require, as appropriate, any of the requirements in paragraphs (a)(3)(i) and (ii) of this section.

(i) Any emissions monitoring, including analysis procedures, test methods, periodic testing, instrumental monitoring and non-instrumental monitoring. Such monitoring requirements shall assure use of test methods, units, averaging periods and other statistical conventions consistent with the required emission limitations.

(ii) As necessary, requirements concerning the use, maintenance and installation of monitoring equipment or methods.

(4) *Recordkeeping requirements.* The permit must include recordkeeping requirements sufficient to assure compliance with the emission limitations and monitoring requirements and it must require the elements in paragraphs (a)(4)(i) and (ii) of this section.

(i) Records of required monitoring information that include the information in paragraphs (a)(4)(i)(A) through (F) of this section, as appropriate.

(A) The location, date and time of sampling or measurements.

(B) The date(s) analyses were performed.

(C) The company or entity that performed the analyses.

(D) The analytical techniques or methods used.

(E) The results of such analyses.

(F) The operating conditions existing at the time of sampling or measurement.

(ii) Retention for 5 years of records of all required monitoring data and

support information for the monitoring sample, measurement, report or application. Support information may include all calibration and maintenance records, all original strip-chart recordings or digital records for continuous monitoring instrumentation and copies of all reports required by the permit.

(5) *Reporting requirements.* The permit must include the reporting requirements in paragraphs (a)(5)(i) and (ii) of this section.

(i) Annual submittal of reports of monitoring required under paragraph (a)(3) of this section, including the type and frequency of monitoring and a summary of results obtained by monitoring.

(ii) Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations and any corrective actions or preventive measures taken. Within the permit, the reviewing authority must define ''prompt'' in relation to the degree and type of deviation likely to occur and the applicable emission limitations.

(6) *Severability clause.* The permit must include a severability clause to ensure the continued validity of the other portions of the permit in the event of a challenge to a portion of the permit.

(7) *Additional provisions.* The permit must also contain provisions stating the requirements in paragraphs (a)(7)(i) through (vii) of this section.

(i) You, as the permittee, must comply with all conditions of your permit, including emission limitations that apply to the affected emissions units at your source. Noncompliance with any permit term or condition is a violation of the permit and may constitute a violation of the Act and is grounds for enforcement action and for a permit termination or revocation.

(ii) Your permitted source must not cause or contribute to a NAAQS violation or in an attainment area, must not cause or contribute to a PSD increment violation.

(iii) It is not a defense for you, as the permittee, in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(iv) The permit may be revised, reopened, revoked and reissued or terminated for cause. The filing of a request by you, as the permittee, for a permit revision, revocation and re-issuance or termination or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(v) The permit does not convey any property rights of any sort or any exclusive privilege.

(vi) You, as the permittee, shall furnish to the reviewing authority, within a reasonable time, any information that the reviewing authority may request in writing to determine whether cause exists for revising, revoking and reissuing or terminating the permit or to determine compliance with the permit. For any such information claimed to be confidential, you must also submit a claim of confidentiality in accordance with part 2, subpart B of this chapter.

(vii) Upon presentation of proper credentials, you, as the permittee, must allow a representative of the reviewing authority to:

(A) Enter upon your premises where a source is located or emissions-related activity is conducted or where records are required to be kept under the conditions of the permit;

(B) Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;

(C) Inspect, during normal business hours or while the source is in operation, any facilities, equipment (including monitoring and air pollution control equipment), practices or operations regulated or required under the permit;

(D) Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements and

(E) Record any inspection by use of written, electronic, magnetic and photographic media.

(b) *Can my permit become invalid?* Your permit becomes invalid if you do not commence construction within 18 months after the effective date of your permit, if you discontinue construction for a period of 18 months or more or if you do not complete construction within a reasonable time. The reviewing authority may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; you must commence construction of each such phase within 18 months of the projected and approved commencement date.

§ 49.156 General permits.

This section applies to general permits for the purposes of complying with the preconstruction permitting requirements for sources of regulated NSR pollutants under this program.

(a) *What is a general permit?* A general permit is a preconstruction permit issued by a reviewing authority that may be applied to a number of similar emissions units or sources. The purpose of a general permit is to simplify the permit issuance process for similar facilities so that a reviewing authority's limited resources need not be expended for case-by-case permit development for such facilities. A general permit may be written to address a single emissions unit, a group of the same type of emissions units or an entire minor source.

(b) *How will the reviewing authority issue general permits?* The reviewing authority will issue general permits as follows:

(1) A general permit may be issued for a category of emissions units or sources that are similar in nature, have substantially similar emissions and would be subject to the same or substantially similar requirements governing operations, emissions, monitoring, reporting and recordkeeping. ''Similar in nature'' refers to size, processes and operating conditions.

(2) A general permit must be issued according to the applicable requirements in § 49.154(c), § 49.154(d) and § 49.155, the public participation requirements in § 49.157 and the requirements for final permit issuance and administrative and judicial review in § 49.159.

(3) Issuance of a general permit is considered final agency action with respect to all aspects of the general permit except its applicability to an individual source. The sole issue that may be appealed after an individual source is approved to construct under a general permit (*see* paragraph (e) of this section) is the applicability of the general permit to that particular source.

(c) *For what categories will general permits be issued?*

(1) The reviewing authority will determine which categories of individual emissions units, groups of similar emissions units or sources are appropriate for general permits in its area.

(2) General permits will be issued at the discretion of the reviewing authority.

(d) *What should the general permit contain?* The general permit must contain the permit elements listed in § 49.155(a). In addition, the general permit must contain the information listed in paragraphs (d)(1) and (2) of this section. The reviewing authority may specify additional general permit terms and conditions.

(1) Identification of the specific category of emissions units or sources to which the general permit applies, including any criteria that your emissions units or source must meet to be eligible for coverage under the general permit.

(2) Information required to request coverage under a general permit including, but not limited to, the following:

(i) The name and mailing address of the reviewing authority to whom you must submit your application.

(ii) The procedure to obtain any standard application forms that the reviewing authority may have developed.

(iii) The information that you must provide to the reviewing authority in your application to demonstrate that you are eligible for coverage under the general permit.

(iv) Other application requirements deemed necessary by the reviewing authority.

(e) *What are the procedures for obtaining coverage for a source under a general permit?*

(1) If your source qualifies for a general permit, you may request coverage under that general permit to the reviewing authority 4 months after the effective date of the general permit, that is, 6 months after publication of the general permit in the **Federal Register**.

(2) At the time you submit your request for coverage under a general permit, you must submit a copy of such request to the Tribe in the area where the source is locating.

(3) The reviewing authority must act on your request for coverage under the general permit as expeditiously as possible, but it must notify you of the final decision within 90 days of its receipt of your coverage request.

(4) Your reviewing authority must comply with a 45-day completeness review period to determine if your request for coverage under a general permit is complete. Therefore, within 30 days after the receipt of your coverage request, your reviewing authority must make an initial request for any additional information necessary to process your coverage request and you must submit such information within 15 days. If you do not submit the requested information within 15 days from the request for additional information and this results in a delay that is beyond the 45-day completeness review period, the 90-day permit issuance period for your general permit will be extended by the additional days you take to submit the requested information beyond the 45-day period. If the reviewing authority fails to notify you within a 30-day period of any additional information necessary to process your coverage request, you will still have 15 days to submit such information and the reviewing authority must still grant or deny your request for coverage under a general permit within the 90-day general permit issuance period and without any time extension.

(5) If the reviewing authority determines that your request for coverage under a general permit has all the relevant information and is complete, it will notify you in writing as soon as that determination is made. If you do not receive from the reviewing authority a request for additional information or a notice that your request for coverage under a general permit is complete within the 45-day completeness review period described in paragraph (4) of this section, your request will be deemed complete.

(6) The reviewing authority will send you a letter notifying you of the approval or denial of your request for coverage under a general permit. This letter is a final action for purposes of judicial review (*see* 40 CFR 49.159) only for the issue of whether your source qualifies for coverage under the general permit. If your request for coverage under a general permit is approved, you must post, prominently, a copy of the letter granting such request at the site where your source is locating.

(7) If the reviewing authority has sent a letter to you approving your request for coverage under a general permit, you must comply with all conditions and terms of the general permit. You will be subject to enforcement action for failure to obtain a preconstruction permit if you construct the emissions unit(s) or source with general permit approval and your source is later determined not to qualify for the conditions and terms of the general permit.

(8) Your permit becomes invalid if you do not commence construction within 18 months after the effective date of your request for coverage under a general permit, if you discontinue construction for a period of 18 months or more or if you do not complete construction within a reasonable time. The reviewing authority may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; you must commence construction of each such phase within 18 months of the projected and approved commencement date.

(9) Any source eligible to request coverage under a general permit may request to be excluded from the general permit by applying for a permit under § 49.154.

§ 49.157 Public participation requirements.

This section applies to the issuance of minor source permits and synthetic minor source permits, the initial issuance of general permits and coverage of a particular source under a general permit.

(a) *What permit information will be publicly available?* With the exception of any confidential information as defined in part 2, subpart B of this chapter, the reviewing authority must make available for public inspection the documents listed in paragraphs (a)(1) through (6) of this section. The reviewing authority must make such information available for public inspection at the appropriate EPA Regional Office and in at least one location in the area affected by the source, such as the Tribal environmental office or a local library.

(1) All information submitted as part of your application for a permit.

(2) Any additional information requested by the reviewing authority.

(3) The reviewing authority's analysis of the application and any additional information you submitted, including (for preconstruction permits and the initial issuance of general permits) the control technology review.

(4) For minor source permits and the initial issuance of general permits, the reviewing authority's analysis of the effect of the construction of the minor source or modification on ambient air quality.

(5) For coverage of a particular source under a general permit, the reviewing authority's analysis of whether your particular emissions unit or source is within the category of emissions units or sources to which the general permit applies, including whether your emissions unit or source meets any criteria to be eligible for coverage under the general permit.

(6) A copy of the draft permit or the decision to deny the permit with the justification for denial.

(b) *How will the public be notified and participate?*

(1) Before issuing a permit under this program, the reviewing authority must prepare a draft permit and must provide adequate public notice to ensure that the affected community and the general public have reasonable access to the application and draft permit information, as set out in paragraphs (b)(1)(i) and (ii) of this section. The public notice must provide an opportunity for public comment and notice of a public hearing, if any, on the draft permit.

(i) The reviewing authority must mail a copy of the notice to you, the appropriate Indian governing body and the Tribal, state and local air pollution authorities having jurisdiction adjacent to the area of Indian country potentially impacted by the air pollution source.

(ii) Depending on such factors as the nature and size of your source, local air quality considerations and the characteristics of the population in the affected area (*e.g.,* subsistence hunting and fishing or other seasonal cultural practices), the reviewing authority must use appropriate means of notification, such as those listed in paragraphs (b)(1)(ii)(A) through (E) of this section.

(A) The reviewing authority may mail or e-mail a copy of the notice to persons on a mailing list developed by the reviewing authority consisting of those persons who have requested to be placed on such a mailing list.

(B) The reviewing authority may post the notice on its Web site.

(C) The reviewing authority may publish the notice in a newspaper of general circulation in the area affected by the source. Where possible, the notice may also be published in a Tribal newspaper or newsletter.

(D) The reviewing authority may provide copies of the notice for posting at one or more locations in the area affected by the source, such as post offices, trading posts, libraries, Tribal environmental offices, community centers or other gathering places in the community.

(E) The reviewing authority may employ other means of notification as appropriate.

(2) The notice required pursuant to paragraph (b)(1) of this section must include the following information at a minimum:

(i) Identifying information, including your name and address (and plant name and address if different) and the name and telephone number of the plant manager/contact.

(ii) The name and address of the reviewing authority processing the permit action;

(iii) For minor source permits, the initial issuance of general permits and coverage of a particular source under a general permit, the regulated NSR pollutants to be emitted, the affected emissions units and the emission limitations for each affected emissions unit;

(iv) For minor source permits, the initial issuance of general permits and coverage of a particular source under a general permit, the emissions change involved in the permit action;

(v) For synthetic minor source permits, a description of the proposed limitation and its effect on the potential to emit of the source;

(vi) Instructions for requesting a public hearing;

(vii) The name, address and telephone number of a contact person in the reviewing authority's office from whom additional information may be obtained;

(viii) Locations and times of availability of the information (listed in paragraph (a) of this section) for public inspection and

(ix) A statement that any person may submit written comments, a written request for a public hearing or both, on the draft permit action. The reviewing authority must provide a period of at least 30 days from the date of the public notice for comments and for requests for a public hearing.

(c) *How will the public comment and will there be a public hearing?*

(1) Any person may submit written comments on the draft permit and may request a public hearing. These comments must raise any reasonably ascertainable issue with supporting arguments by the close of the public comment period (including any public hearing). The reviewing authority must consider all comments in making the final decision. The reviewing authority must keep a record of the commenters and of the issues raised during the public participation process and such records must be available to the public.

(2) The reviewing authority must extend the public comment period under paragraph (b) of this section to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.

(3) A request for a public hearing must be in writing and must state the nature of the issues proposed to be raised at the hearing.

(4) The reviewing authority must hold a hearing whenever there is, on the basis of requests, a significant degree of public interest in a draft permit. The reviewing authority may also hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision. The reviewing authority must provide notice of any public hearing at least 30 days prior to the date of the hearing. Public notice of the hearing may be concurrent with that of the draft permit and the two notices may be combined. Reasonable limits may be set upon the time allowed for oral statements at the hearing.

(5) The reviewing authority must make a tape recording or written transcript of any hearing available to the public.

§ 49.158 Synthetic minor source permits.

You may obtain a synthetic minor source permit under this program to establish a synthetic minor source for purposes of the applicable PSD, nonattainment major NSR or Clean Air Act title V program and/or a synthetic minor HAP source for purposes of part 63 of the Act or the applicable Clean Air Act title V program. Any source that becomes a synthetic minor source for NSR and title V purposes but has other applicable requirements or becomes a synthetic minor for NSR but is major for title V purposes, remains subject to the applicable title V program. Note that if you propose to construct or modify a synthetic minor source, you are also subject to the preconstruction permitting requirements in §§ 49.154 and 49.155, except for the permit application content and permit application completeness provisions included in § 49.154(a)(2) and § 49.154(b).

(a) *What information must my synthetic minor source permit application contain?*

(1) Your application must include the following information:

(i) Identifying information, including your name and address (and plant name and address if different) and the name and telephone number of the plant manager/contact.

(ii) For each regulated NSR pollutant and/or HAP and for all emissions units to be covered by an emissions limitation, the following information:

(A) The proposed emission limitation and a description of its effect on actual emissions or the potential to emit. Proposed emission limitations must have a reasonably short averaging period, taking into consideration the operation of the source and the methods to be used for demonstrating compliance.

(B) Proposed testing, monitoring, recordkeeping and reporting requirements to be used to demonstrate and assure compliance with the proposed limitation.

(C) A description of the production processes.

(D) Identification of the emissions units.

(E) Type and quantity of fuels and/or raw materials used.

(F) Description and estimated efficiency of air pollution control equipment under present or anticipated operating conditions.

(G) Estimates of the current actual emissions and current potential to emit, including all calculations for the estimates.

(H) Estimates of the allowable emissions and/or potential to emit that

would result from compliance with the proposed limitation, including all calculations for the estimates.

(iii) Any other information specifically requested by the reviewing authority.

(2) Estimates of actual emissions must be based upon actual test data or in the absence of such data, upon procedures acceptable to the reviewing authority. Any emission estimates submitted to the reviewing authority must be verifiable using currently accepted engineering criteria. The following procedures are generally acceptable for estimating emissions from air pollution sources:

(i) Source-specific emission tests;

(ii) Mass balance calculations;

(iii) Published, verifiable emission factors that are applicable to the source;

(iv) Other engineering calculations or

(v) Other procedures to estimate emissions specifically approved by the reviewing authority.

(b) *What are the procedures for obtaining a synthetic minor source permit?*

(1) If you wish to obtain a synthetic minor source permit under this program, you must submit a permit application to the reviewing authority. The application must contain the information specified in paragraph (a) of this section.

(2) Within 60 days after receipt of an application, the reviewing authority will determine if it contains the information specified in paragraph (a) of this section.

(3) If the reviewing authority determines that the application is not complete, it will request additional information from you as necessary to process the application. If the reviewing authority determines that the application is complete, it will notify you in writing. The reviewing authority's completeness determination or request for additional information should be postmarked within 60 days of receipt of the permit application by the reviewing authority. If you do not receive a request for additional information or a notice of complete application postmarked within 60 days of receipt of the permit application by the reviewing authority, your application will be deemed complete

(4) The reviewing authority will prepare a draft synthetic minor source permit that describes the proposed limitation and its effect on the potential to emit of the source.

(5) The reviewing authority must provide an opportunity for public participation and public comment on the draft synthetic minor source permit as set out in § 49.157.

(6) After the close of the public comment period, the reviewing authority will review all comments received and prepare a final synthetic minor source permit.

(7) The final synthetic minor source permit will be granted or denied no later than 1 year after the date the application is deemed complete and all additional information necessary to make an informed decision has been provided.

(8) The final synthetic minor source permit will be issued and will be subject to administrative and judicial review as set out in § 49.159.

(c) *What are my responsibilities under this program for my source that already has synthetic minor source or synthetic minor HAP source status prior to the effective date of this rule (that is, prior to August 30, 2011)?*

(1) If your existing synthetic minor source and/or synthetic minor HAP source was established pursuant to the FIPs applicable to the Indian reservations in Idaho, Oregon and Washington or was established under an EPA-approved rule or permit program limiting potential to emit, you do not need to take any action under this program unless you propose a modification for this existing synthetic minor source and/or synthetic minor HAP source, on or after the effective date of this rule, that is, on or after August 30, 2011. For these modifications, you need to obtain a permit pursuant to § 49.158 prior to commencing construction.

(2) If your existing synthetic minor source and/or synthetic minor HAP source was established under a permit with enforceable emissions limitations issued pursuant to part 71 of this chapter, the reviewing authority has the discretion to do any of the following:

(i) Allow you to maintain the synthetic minor status for your source through your permit under part 71 of this chapter, including subsequent renewals of that permit.

(ii) Require you to submit an application for a synthetic minor source permit under this program by September 4, 2012, subject to the provisions in paragraphs (a) and (c)(4)(i) through (iii) of this section. The reviewing authority also has the discretion to require any additional requirements, including control technology requirements, based on the specific circumstances of the source.

(iii) Require you to submit an application for a synthetic minor source permit under this program at the same time that you apply to renew your permit under part 71 of this chapter, subject to the provisions in paragraphs (a) and (c)(4)(i) through (iii) of this section. The reviewing authority also has the discretion to require any additional requirements, including control technology requirements, based on the specific circumstances of the source.

(3) If your existing synthetic minor source and/or synthetic minor HAP source was established through a mechanism other than those described in paragraphs (c)(1) and (c)(2) of this section, you must submit an application for a synthetic minor source permit under this program by September 4, 2012, subject to the provisions in paragraphs (a) and (c)(4)(i) through (iii) of this section

(4) If you are required to obtain a synthetic minor source permit under this program for your existing synthetic minor source and/or synthetic minor HAP source, the following provisions apply:

(i) After submitting your synthetic minor source permit application, you must respond in a timely manner to any requests from the reviewing authority for additional information.

(ii) Provided that you submit your application as required in paragraph (c)(2)(ii), (c)(2)(iii) or (c)(3) (as applicable) and any requested additional information as required in paragraph (c)(4)(i) of this section, your source will continue to be considered a synthetic minor source or synthetic minor HAP source (as applicable) until your synthetic minor source permit under this program has been issued. Issuance of your synthetic minor source permit under this program will be in accordance with the applicable requirements in §§ 49.154 and 49.155 and all other provisions under this section.

(iii) Should you fail to submit your application as required in paragraph (c)(2)(ii), (c)(2)(iii) or (c)(3) (as applicable) or any requested additional information as required in paragraph (c)(4)(i) of this section, your source will no longer be considered a synthetic minor source or synthetic minor HAP source (as applicable) and will become subject to all requirements for major sources. In the case of sources subject to section (c)(2)(iii) of this section, the renewed part 71 permit will not contain enforceable emissions limitations and instead will include applicable major source requirements.

§ 49.159 Final permit issuance and administrative and judicial review.

(a) *How will final action occur and when will my permit become effective?* After decision on a permit, the reviewing authority must notify you of the decision, in writing and if the

permit is denied, of the reasons for such denial and the procedures for appeal. The reviewing authority must provide adequate public notice of the final permit decision to ensure that the affected community, general public and any individuals who commented on the draft permit have reasonable access to the decision and supporting materials according to 49.157(b)(1), for synthetic minor sources and minor modifications at major sources and according to one or more of the provisions in § 49.157(b)(1)(ii)(A)–(E) for site-specific permits. A final permit becomes effective 30 days after service of notice of the final permit decision, unless:

(1) A later effective date is specified in the permit or

(2) Review of the final permit is requested under paragraph (d) of this section (in which case the specific terms and conditions of the permit that are the subject of the request for review must be stayed) or

(3) The reviewing authority may make the permit effective immediately upon issuance if no comments requested a change in the draft permit or a denial of the permit.

(b) *For how long will the reviewing authority retain my permit-related records?* The records, including any required applications for each draft and final permit or application for permit revision, must be kept by the reviewing authority for not less than 5 years.

(c) *What is the administrative record for each final permit?*

(1) The reviewing authority must base final permit decisions on an administrative record consisting of:

(i) The application and any supporting data furnished by you, the permit applicant;

(ii) The draft permit or notice of intent to deny the application;

(iii) Other documents in the supporting files for the draft permit that were relied upon in the decision-making;

(iv) All comments received during the public comment period, including any extension or reopening;

(v) The tape or transcript of any hearing(s) held;

(vi) Any written material submitted at such a hearing;

(vii) Any new materials placed in the record as a result of the reviewing authority's evaluation of public comments;

(viii) The final permit and

(ix) Other documents in the supporting files for the final permit that were relied upon in the decision-making.

(2) The additional documents required under paragraph (c)(1) of this section should be added to the record as soon as possible after their receipt or preparation by the reviewing authority. The record must be complete on the date the final permit is issued.

(3) Material readily available or published materials that are generally available and that are included in the administrative record under the standards of paragraph (c)(1) of this section need not be physically included in the same file as the rest of the record as long as it is specifically referred to in that file.

(d) *Can permit decisions be appealed?* Permit decisions may be appealed according to the following provisions:

(1) The Administrator delegates authority to the Environmental Appeals Board (the Board) to issue final decisions in permit appeals filed under this program. An appeal directed to the Administrator, rather than to the Board, will not be considered. This delegation does not preclude the Board from referring an appeal or a motion under this program to the Administrator when the Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator by the Board, all parties shall be so notified and the provisions of this program referring to the Board shall be interpreted as referring to the Administrator.

(2) Within 30 days after a final permit decision has been issued, any person who filed comments on the draft permit or participated in the public hearing may petition the Board to review any condition of the permit decision. Any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition for administrative review only to the extent that the changes from the draft to the final permit or other new grounds were not reasonably ascertainable during the public comment period on the draft permit. The 30-day period within which a person may request review under this section begins with the service of notice of the final permit decision, unless a later date is specified in that notice.

(3) The petition must include a statement of the reasons supporting the review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) to the extent required by these regulations, unless the petitioner demonstrates that such objections were not reasonably ascertainable within such period and, when appropriate, a showing that the condition in question is based on:

(i) A finding of fact or conclusion of law that is clearly erroneous or

(ii) An exercise of discretion or an important policy consideration that the Board should, in its discretion, review.

(4) The Board may also decide on its own initiative to review any condition of any permit issued under this program.

(5) Within a reasonable time following the filing of the petition for review, the Board will issue an order either granting or denying the petition for review. To the extent review is denied, the conditions of the final permit decision become final agency action. If the Board grants review in response to requests under paragraph (d)(2)–(3) or (4) of this section, public notice must be given as provided in § 49.157(b). Public notice must set forth a briefing schedule for the appeal and must state that any interested person may file an amicus brief. If the Board denies review, you, the permit applicant and the person(s) requesting review must be notified through means that are adequate to assure reasonable access to the decision, which may include mailing a notice to each party.

(6) The reviewing authority, at any time prior to the rendering of a decision under paragraph (d)(5) of this section to grant or deny review of a permit decision, may, upon notification to the Board and any interested parties, withdraw the permit and prepare a new draft permit addressing the portions so withdrawn. The new draft permit shall proceed through the same process of public comment and opportunity for a public hearing as would apply to any other draft permit subject to this subpart and in accordance with § 49.157.

(7) A petition to the Board under paragraph (d)(2) of this section is, under section 307(b) of the Act, a prerequisite to seeking judicial review of the final agency action.

(8) For purposes of judicial review, final agency action occurs when a final permit is issued or denied by the reviewing authority and agency review procedures are exhausted. A final permit decision will be issued by the reviewing authority:

(i) When the Board issues notice to the parties that review has been denied;

(ii) When the Board issues a decision on the merits of the appeal and the decision does not include a remand of the proceedings or

(iii) Upon the completion of remand proceedings if the proceedings are remanded, unless the Board's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.

(9) Motions to reconsider a final order must be filed within 10 days after service of the final order. Every such

motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration under this provision must be directed to and decided by, the Board. Motions for reconsideration directed to the Administrator, rather than to the Board, will not be considered, except in cases the Board has referred to the Administrator pursuant to § 49.159(d)(1) and in which the Administrator has issued the final order. A motion for reconsideration will not stay the effective date of the final order unless specifically so ordered by the Board.

(10) For purposes of this section, time periods are computed as follows:

(i) Any time period scheduled to begin on the occurrence of an act or event must begin on the day after the act or event.

(ii) Any time period scheduled to begin before the occurrence of an act or event must be computed so that the period ends on the day before the act or event, except as otherwise provided.

(iii) If the final day of any time period falls on a weekend or legal holiday, the time period must be extended to the next working day.

(iv) Whenever a party or interested person has the right or is required to act within a prescribed period after the service of notice or other paper upon him or her by mail, 3 days must be added to the prescribed time.

(e) *Can my permit be reopened?* The reviewing authority may reopen an existing, currently-in-effect permit for cause on its own initiative, such as if it contains a material mistake or fails to assure compliance with applicable requirements. However, except for those permit reopenings that do not increase the emissions limitations in the permit, such as permit reopenings that correct typographical, calculation and other errors, all other permit reopenings shall be carried out after the opportunity of public notice and comment and in accordance with one or more of the public participation requirements under § 49.157(b)(1)(ii).

(f) *What is an administrative permit revision?* The following provisions govern administrative permit revisions.

(1) An administrative permit revision is a permit revision that makes any of the following changes:

(i) Corrects typographical errors.

(ii) Identifies a change in the name, address or phone number of any person identified in the permit or provides a similar minor administrative change at the source.

(iii) Requires more frequent monitoring or reporting by the permittee.

(iv) Allows for a change in ownership or operational control of a source where the reviewing authority determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage and liability between the current and new permittee has been submitted to the reviewing authority.

(v) Establishes an increase in an emissions unit's annual allowable emissions limit for a regulated NSR pollutant, when the action that necessitates such increase is not otherwise subject to review under major NSR or under this program.

(vi) Incorporates any other type of change that the reviewing authority has determined to be similar to those in paragraphs (f)(1)(i) through (v) of this section.

(2) An administrative permit revision is not subject to the permit application, issuance, public participation or administrative and judicial review requirements of this program.

§ 49.160 Registration program for minor sources in Indian country.

(a) *Does this section apply to my source?* This section applies to you if you are the owner/operator of a true minor source.

(b) *What is exempted from this section?* The exemptions in paragraphs (b)(1) and (b)(2) of this section apply to the registration program of this section.

(1) You are exempt from this registration program if any of the following paragraphs applies to your source:

(i) Your source is subject to the registration requirements under § 49.138—''Rule for the registration of air pollution sources and the reporting of emissions.''

(ii) Your source has a part 71 permit.

(iii) Your source is a synthetic minor source or a synthetic minor HAP source or a minor modification at a major source as defined in § 49.152(d).

(2) For purposes of determining the potential to emit, allowable or actual emissions of your source, you are not required to include emissions from the exempted emissions units and activities listed in § 49.153(c).

(c) *What are the requirements for registering your minor source?* The requirements for registrations are as follows:

(1) *Due date.* The due date of your source registration varies according to the following paragraphs:

(i) If you own or operate an existing true minor source (as defined in 40 CFR 49.152(d)), you must register your source with your reviewing authority 18 months after the effective date of this program, that is, March 1, 2013.

(ii) If your true minor source commences construction in the time period between the effective date of the rule and September 2, 2014, you must register your source with your reviewing authority within 90 days after the source begins operation.

(iii) If construction or modification of your source commenced any time on or after September 2, 2014 and your source is subject to this rule, you must report your source's actual emissions (if available) as part of your permit application and your permit application information will be used to fulfill the registration requirements described in § 49.160(c)(2).

(2) *Content.* You must submit all registration information on forms provided by the reviewing authority. Each registration must include the following information, as applicable:

(i) Identifying information, including your name and address (and plant name and address if different) and the name and telephone number of the plant manager/contact.

(ii) A description of your source's processes and products.

(iii) A list of all emissions units (with the exception of the exempt emissions units and activities listed in § 49.153(c)).

(iv) For each emissions unit that is listed, both the allowable and estimated actual annual emissions of each regulated NSR pollutant in tpy (including fugitive emissions, to the extent that they are quantifiable, if the emissions unit or source is in one of the source categories listed in § 51, Appendix S, paragraph II.A.4(iii) or § 52.21(b)(1)(iii) of this chapter), with supporting documentation.

(v) The following information: Fuels, fuel use, raw materials, production rates and operating schedules.

(vi) Identification and description of any existing air pollution control equipment and compliance monitoring devices or activities.

(vii) Any existing limitations on source operation affecting emissions or any work practice standards, where applicable, for all NSR regulated pollutants at the source.

(viii) Any other information specifically requested by the reviewing authority.

(3) *Procedure for estimating emissions.* Your registration should include potential to emit or estimates of the allowable and actual emissions, in tpy, of each regulated NSR pollutant for each emissions unit at the source.

(i) Estimates of allowable emissions must be consistent with the definition of that term in § 49.152(d). Allowable

emissions must be calculated based on 8,760 operating hours per year (*i.e.,* operating 24 hours per day, 365 days per year) unless the reviewing authority approves a different number of annual operating hours as the basis for the calculation.

(ii) Estimates of actual emissions must take into account equipment, operating conditions and air pollution control measures. For a source that operated during the entire calendar year preceding the initial registration submittal, the reported actual emissions typically should be the annual emissions for the preceding calendar year, calculated using the actual operating hours, production rates, in-place control equipment and types of materials processed, stored or combusted during the preceding calendar year. However, if you believe that the actual emissions in the preceding calendar year are not representative of the emissions that your source will actually emit in coming years, you may submit an estimate of projected actual emissions along with the actual emissions from the preceding calendar year and the rationale for the projected actual emissions. For a source that has not operated for an entire year, the actual emissions are the estimated annual emissions for the current calendar year.

(iii) The allowable and actual emission estimates must be based upon actual test data or, in the absence of such data, upon procedures acceptable to the reviewing authority. Any emission estimates submitted to the reviewing authority must be verifiable using currently accepted engineering criteria. The following procedures are generally acceptable for estimating emissions from air pollution sources:

(i) Source-specific emission tests;

(ii) Mass balance calculations;

(iii) Published, verifiable emission factors that are applicable to the source;

(iv) Other engineering calculations or

(v) Other procedures to estimate emissions specifically approved by the Regional Administrator.

(4) *Duty to obtain a permit.* Submitting a registration does not relieve you of the requirement to obtain any required permit, including a preconstruction permit, if your source or any physical or operational change at your source would be subject to any minor or major NSR rule.

(d) *What are the requirements for additional reports?* After you have registered your source, you must submit the following additional reports, when applicable:

(1) *Report of relocation.* After your source has been registered, you must report any relocation of your source to the reviewing authority in writing no later than 30 days prior to the relocation of the source. However, you need not submit a report if you obtained a major or minor NSR permit for the relocation. Submitting a report of relocation does not relieve you of the requirement to obtain a preconstruction permit if the change is subject to any major NSR or minor NSR rule.

(2) *Report of change of ownership.* After your source has been registered, the new owner/operator must report any change of ownership of a source to the reviewing authority in writing within 90 days after the change in ownership is effective.

(3) *Report of closure.* Except for regular seasonal closures, after your source has been registered, you must submit a report of closure to the reviewing authority in writing within 90 days after the cessation of all operations at your source.

§ 49.161 Administration and delegation of the minor NSR program in Indian country.

(a) *Who administers a minor NSR program in Indian country?*

(1) If the Administrator has approved a TIP that includes a minor NSR program for sources in Indian country that meets the requirements of section 110(a)(2)(C) of the Act and §§ 51.160 through 51.164 of this chapter, the Tribe is the reviewing authority and it will administer the approved minor NSR program under Tribal law.

(2) If the Administrator has not approved an implementation plan, the Administrator may delegate the authority to assist EPA with administration of portions of this Federal minor NSR program implemented under Federal authority to a Tribal agency upon request, in accordance with the provisions of paragraph (b) of this section. If the Tribal agency has been granted such delegation, it will have the authority to assist EPA according to paragraph (b) of this section and it will be the reviewing authority for purposes of the provisions for which it has been granted delegation.

(3) If the Administrator has not approved an implementation plan or granted delegation to a Tribal agency, the Administrator is the reviewing authority and will directly administer all aspects of this Federal minor NSR program in Indian country under Federal authority.

(b) *Delegation of administration of the Federal minor NSR program to Tribes.* This paragraph (b) establishes the process by which the Administrator may delegate authority to a Tribal agency, with or without signature authority, to assist EPA with administration of portions of this Federal minor NSR program, in accordance with the provisions in paragraphs (b)(1) through (8) of this section. Any Federal requirements under this program that are administered by the delegate Tribal agency will be subject to enforcement by EPA under Federal law. This section provides for administrative delegation of the Federal minor NSR program and does not affect the eligibility criteria under § 49.6 for treatment in the same manner as a state.

(1) *Information to be included in the Administrative Delegation Request.* In order to be delegated authority to assist EPA with administration of this FIP permit program for sources, the Tribal agency must submit a request to the Administrator that:

(i) Identifies the specific provisions for which delegation is requested;

(ii) Identifies the Indian Reservation or other areas of Indian country for which delegation is requested;

(iii) Includes a statement by the applicant's legal counsel (or equivalent official) that includes the following information:

(A) A statement that the applicant is a Tribe recognized by the Secretary of the Interior;

(B) A descriptive statement that is consistent with the type of information described in § 49.7(a)(2) demonstrating that the applicant is currently carrying out substantial governmental duties and powers over a defined area and

(C) A description of the laws of the Tribe that provide adequate authority to administer the Federal rules and provisions for which delegation is requested and

(iv) A demonstration that the Tribal agency has the technical capability and adequate resources to administer the FIP provisions for which the delegation is requested.

(2) *Delegation of Partial Administrative Authority Agreement.* A Delegation of Partial Administrative Authority Agreement (Agreement) will set forth the terms and conditions of the delegation, will specify the provisions that the delegate Tribal agency will be authorized to implement on behalf of EPA and will be entered into by the Administrator and the delegate Tribal agency. The Agreement will become effective upon the date that both the Administrator and the delegate Tribal agency have signed the Agreement or as otherwise stated in the Agreement. Once the delegation becomes effective, the delegate Tribal agency will be responsible, to the extent specified in

the Agreement, for assisting EPA with administration of the provisions of the Federal minor NSR program that are subject to the Agreement.

(3) *Publication of notice of the Agreement.* The Administrator will publish a notice in the **Federal Register** informing the public of any Agreement for a particular area of Indian country. The Administrator also will publish the notice in a newspaper of general circulation in the area affected by the delegation. In addition, the Administrator will mail a copy of the notice to persons on a mailing list developed by the Administrator consisting of those persons who have requested to be placed on such a mailing list.

(4) *Revision or revocation of an Agreement.* An Agreement may be modified, amended or revoked, in part or in whole, by the Administrator after consultation with the delegate Tribal agency.

(5) *Transmission of information to the Administrator.* When administration of a portion of the Federal minor NSR program in Indian country that includes receipt of permit application materials and preparation of draft permits has been delegated in accordance with the provisions of this section, the delegate Tribal agency must provide to the Administrator a copy of each permit application (including any application for permit revision) and each draft permit. You, the permit applicant, may be required by the delegate Tribal agency to provide a copy of the permit application directly to the Administrator. With the Administrator's consent, the delegate Tribal agency may submit to the Administrator a permit application summary form and any relevant portion of the permit application, in place of the complete permit application. To the extent practicable, the preceding information should be provided in electronic format by the delegate Tribal agency or by you, the permit applicant, as applicable and as requested by the Administrator. The delegate Tribal agency must also submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the delegate Tribal agency is implementing and administering the delegated program in compliance with the requirements of the Act and of this program.

(6) *Waiver of information transmission requirements.* The Administrator may waive the requirements of paragraph (b)(5) of this section for any category of sources (including any class, type or size within such category) by transmitting the waiver in writing to the delegate Tribal agency.

(7) *Retention of records.* Where a delegate Tribal agency prepares draft or final permits or receives applications for permit revisions on behalf of EPA, the records for each draft and final permit or application for permit revision must be kept by the delegate Tribal agency for a period not less than 3 years.

(8) *Delegation of signature authority.* To receive delegation of signature authority, the legal statement submitted by the Tribal agency pursuant to paragraph (b)(1) of this section must certify that no applicable provision of Tribal law requires that a minor NSR permit be issued after a certain time if the delegate Tribal agency has failed to take action on the application (or includes any other similar provision providing for default issuance of a permit).

(c) *Are there any non-delegable elements of the Federal minor NSR program in Indian country?* The following authorities cannot be delegated outside of EPA:

(1) The Administrator's authority to object to the issuance of a minor NSR permit.

(2) The Administrator's authority to enforce permits issued pursuant to this program.

(d) *How will EPA transition its authority to an approved minor NSR program?*

(1) The Administrator will suspend the issuance of minor NSR permits under this program promptly upon publication of notice of approval of a Tribal implementation plan with a minor NSR permit program for that area.

(2) The Administrator may retain jurisdiction over the permits for which the administrative or judicial review process is not complete and will address this issue in the notice of program approval.

(3) After approval of a program for issuing minor NSR permits and the suspension of issuance of minor NSR permits by the Administrator, the Administrator will continue to administer minor NSR permits until permits are issued under the approved Tribal implementation plan program.

(4) Permits previously issued under this program will remain in effect and be enforceable as a practical matter until and unless the Tribe issues new permits to these sources based on the provisions of the EPA-approved Tribal implementation plan.

■ 3. Add an undesignated center heading and §§ 49.166 through 49.173 to subpart C to read as follows:

Federal Major New Source Review Program for Nonattainment Areas in Indian Country

* * * * *

Sec.

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§ 49.166 Program overview.

(a) *What constitutes the Federal major new source review (NSR) program for nonattainment areas in Indian country?* As set forth in this Federal Implementation Plan (FIP), the Federal major NSR program for nonattainment areas in Indian country (or ''program'') consists of §§ 49.166 through 49.175.

(b) *What is the purpose of this program?* This program has the following purposes:

(1) It establishes a preconstruction permitting program for new major sources and major modifications at existing major sources located in nonattainment areas in Indian country to meet the requirements of part D of title I of the Act.

(2) It requires that major sources subject to this program comply with the provisions and requirements of part 51, Appendix S of this chapter (Appendix S). Additionally, it sets forth the criteria and procedures in Appendix S that the reviewing authority (as defined in § 49.167) will use to approve permits under this program. Note that for the purposes of this program, the term SIP as used in Appendix S means any EPA-approved implementation plan, including a Tribal Implementation Plan (TIP). While some of the important provisions of Appendix S are paraphrased in various paragraphs of this program to highlight them, the provisions of Appendix S govern.

(3) It also sets forth procedures for appealing a permit issued under this program as provided in § 49.172.

(c) *When and where does this program apply?*

(1) The provisions of this program apply to new major sources and major modifications at existing major sources located in nonattainment areas in Indian country where there is no EPA-approved nonattainment major NSR program beginning on August 30, 2011. The provisions of this program apply only to new sources and modifications

that are major for the regulated NSR pollutant(s) for which the area is designated nonattainment.

(2) The provisions of this program cease to apply in an area covered by an EPA-approved implementation plan on the date that our approval of that implementation plan becomes effective, provided that the plan includes provisions that comply with the requirements of part D of title I of the Act and § 51.165 of this chapter for the construction of new major sources and major modifications at existing major sources in nonattainment areas. Permits previously issued under this program will remain in effect and be enforceable as a practical matter until and unless the Tribe issues new permits to these sources based on the provisions of the EPA-approved Tribal implementation plan.

(d) *What general provisions apply under this program?* The following general provisions apply to you as an owner/operator of a source:

(1) If you propose to construct a new major source or a major modification at an existing major source in a nonattainment area in Indian country, you must obtain a major NSR permit under this program before beginning actual construction. If you commence construction after the effective date of this program without applying for and receiving a permit pursuant to this program, you will be subject to appropriate enforcement action.

(2) If you do not construct or operate your source or modification in accordance with the terms of your major NSR permit issued under this program, you will be subject to appropriate enforcement action.

(3) Issuance of a permit under this program does not relieve you of the responsibility to comply fully with applicable provisions of any EPA-approved implementation plan or FIP and any other requirements under applicable law.

(4) Nothing in this program prevents a Tribe from administering a nonattainment major NSR permit program with different requirements in an approved TIP as long as the TIP meets the requirements of part D of title I of the Act.

§ 49.167 Definitions.

For the purposes of this program, the definitions in part 51, Appendix S, paragraph II.A of this chapter apply, unless otherwise stated. The following definitions also apply to this program:

Allowable emissions means ''allowable emissions'' as defined in part 51, Appendix S, paragraph II.A.11 of this chapter, except that the allowable emissions for any emissions unit are calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

Enforceable as a practical matter means that an emission limitation or other standard is both legally and practicably enforceable as follows:

(1) An emission limitation or other standard is legally enforceable if the reviewing authority has the right to enforce it.

(2) Practical enforceability for an emission limitation or for other standards (design standards, equipment standards, work practices, operational standards, pollution prevention techniques) in a permit for a source is achieved if the permit's provisions specify:

(i) A limitation or standard and the emissions units or activities at the source subject to the limitation or standard;

(ii) The time period for the limitation or standard (*e.g.,* hourly, daily, monthly and/or annual limits such as rolling annual limits) and

(iii) The method to determine compliance, including appropriate monitoring, recordkeeping, reporting and testing.

(3) For rules and general permits that apply to categories of sources, practical enforceability additionally requires that the provisions:

(i) Identify the types or categories of sources that are covered by the rule or general permit;

(ii) Where coverage is optional, provide for notice to the reviewing authority of the source's election to be covered by the rule or general permit and

(iii) Specify the enforcement consequences relevant to the rule or general permit.

Environmental Appeals Board means the Board within the EPA described in § 1.25(e) of this chapter.

Indian country, as defined in 18 U.S.C. 1151, means the following:

(1) All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation; [1]

(2) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a state and

(3) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Indian governing body means the governing body of any Tribe, band or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

Reviewing authority means the Administrator or an Indian Tribe in cases where a Tribal agency is assisting EPA with administration of the program through a delegation under § 49.173.

Synthetic minor HAP source means a source that otherwise has the potential to emit HAPs in amounts that are at or above those for major sources of HAP in § 63.2 of this chapter, but that has taken a restriction such that its potential to emit is less than such amounts for major sources. Such restrictions must be enforceable as a practical matter.

Synthetic minor source means a source that otherwise has the potential to emit regulated NSR pollutants in amounts that are at or above those for major sources in Appendix S, but that has taken a restriction such that its potential to emit is less than such amounts for major sources. Such restrictions must be enforceable as a practical matter.

§ 49.168 Does this program apply to me?

(a) In a nonattainment area for a pollutant in Indian country, the requirements of this program apply to you under either of the following circumstances:

(1) If you propose to construct a new major source (as defined in part 51, Appendix S, paragraph II.A.4 of this chapter) of the nonattainment pollutant.

(2) If you propose to construct a major modification at your existing major source (as defined in part 51, Appendix S, paragraph II.A.5 of this chapter), where your source is a major source of the nonattainment pollutant and the proposed modification is a major modification for the nonattainment pollutant.

(b) If you own or operate a major source with a state-issued nonattainment major NSR permit, you must apply to convert such permit to a Federal permit under this program by September 4, 2012.

(c) If you propose to establish a synthetic minor source or synthetic minor HAP source or to construct a minor modification at your major source, you will have to comply with the requirements of the Federal minor NSR program in Indian country at

[1] Under this definition, EPA treats as reservations trust lands validly set aside for the use of a tribe even if the trust lands have not been formally designated as a reservation.

§§ 49.151 through 49.165 or other EPA-approved minor NSR program, as applicable.

49.169 Permit approval criteria.

(a) *What are the general criteria for permit approval?* The general review criteria for permits are provided in part 51, Appendix S, paragraph II.B of this chapter. In summary, that paragraph basically requires the reviewing authority to ensure that the proposed new major source or major modification would meet all applicable emission requirements in the EPA-approved implementation plan or FIP, any applicable new source performance standard in part 60 of this chapter and any applicable national emission standards for hazardous air pollutants in part 61 or part 63 of this chapter, before a permit can be issued.

(b) *What are the program-specific criteria for permit approval?* The approval criteria or conditions for obtaining a major NSR permit for major sources and major modifications locating in nonattainment areas are given in part 51, Appendix S, paragraph IV.A of this chapter. In summary, these are the following:

(1) The lowest achievable emission rate (LAER) requirement for any NSR pollutant subject to this program.

(2) Certification that all existing major sources owned or operated by you in the same state as the state including the Tribal land where the proposed source or modification is locating are in compliance or under a compliance schedule.

(3) Emissions reductions (offsets) requirement for any source or modification subject to this program.

(4) A demonstration that the emission offsets will provide a net air quality benefit in the affected area.

(5) An analysis of alternative sites, sizes, production processes and environmental control techniques for such proposed source that demonstrates that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.

§ 49.170 Emission offset requirement exemption.

An Indian governing body may seek an exemption from the emission offset requirement (*see* § 49.169(b)(3)) for major sources and major modifications subject to this program that are located within the Tribe's Indian country pursuant to section 173(a)(1)(B) of the Act, under which major sources and major modifications subject to this program may be exempted from the offset requirement if they are located in a zone targeted for economic development by the Administrator, in consultation with the Department of Housing and Urban Development (HUD). Under this Economic Development Zone (EDZ) approach, the Administrator would waive the offset requirement for such sources and modifications, provided that:

(a) The new major source or major modification is located in a geographical area which meets the criteria for an EDZ and the Administrator has approved a request from a Tribe and declared the area an EDZ and

(b) The state/Tribe demonstrates that the new permitted emissions are consistent with the achievement of reasonable further progress pursuant to section 172(c)(4) of the Act and will not interfere with attainment of the applicable NAAQS by the applicable attainment date.

§ 49.171 Public participation requirements.

(a) *What permit information will be publicly available?* With the exception of any confidential information as defined in part 2, subpart B of this chapter, the reviewing authority must make available for public inspection the documents listed in paragraphs (a)(1) through (4) of this section. The reviewing authority must make such information available for public inspection at the appropriate EPA Regional Office and in at least one location in the area affected by the source, such as the Tribal environmental office or a local library.

(1) All information submitted as part of your application for a permit.

(2) Any additional information requested by the reviewing authority.

(3) The reviewing authority's analysis of the application and any additional information submitted by you, including the LAER analysis and, where applicable, the analysis of your emissions reductions (offsets), your demonstration of a net air quality benefit in the affected area and your analysis of alternative sites, sizes, production processes and environmental control techniques.

(4) A copy of the draft permit or the decision to deny the permit with the justification for denial.

(b) *How will the public be notified and participate?*

(1) Before issuing a permit under this program, the reviewing authority must prepare a draft permit and must provide adequate public notice to ensure that the affected community and the general public have reasonable access to the application and draft permit information, as set out in paragraphs (b)(1)(i) and (ii) of this section. The public notice must provide an opportunity for public comment and notice of a public hearing, if any, on the draft permit.

(i) The reviewing authority must mail a copy of the notice to you, the appropriate Indian governing body and the Tribal, state and local air pollution authorities having jurisdiction adjacent to the area of Indian country potentially impacted by the air pollution source.

(ii) Depending on such factors as the nature and size of your source, local air quality considerations and the characteristics of the population in the affected area (*e.g.,* subsistence hunting and fishing or other seasonal cultural practices), the reviewing authority must use appropriate means of notification, such as those listed in paragraphs (b)(1)(ii)(A) through (E) of this section.

(A) The reviewing authority may mail or e-mail a copy of the notice to persons on a mailing list developed by the reviewing authority consisting of those persons who have requested to be placed on such a mailing list.

(B) The reviewing authority may post the notice on its Web site.

(C) The reviewing authority may publish the notice in a newspaper of general circulation in the area affected by the source. Where possible, the notice may also be published in a Tribal newspaper or newsletter.

(D) The reviewing authority may provide copies of the notice for posting at one or more locations in the area affected by the source, such as Post Offices, trading posts, libraries, Tribal environmental offices, community centers or other gathering places in the community.

(E) The reviewing authority may employ other means of notification as appropriate.

(2) The notice required pursuant to paragraph (b)(1) of this section must include the following information at a minimum:

(i) Identifying information, including your name and address (and plant name and address if different) and the name and telephone number of the plant manager/contact.

(ii) The name and address of the reviewing authority processing the permit action;

(iii) The regulated NSR pollutants to be emitted, the affected emissions units and the emission limitations for each affected emissions unit;

(iv) The emissions change involved in the permit action;

(v) Instructions for requesting a public hearing;

(vi) The name, address and telephone number of a contact person in the

reviewing authority's office from whom additional information may be obtained;

(vii) Locations and times of availability of the information (listed in paragraph (a) of this section) for public inspection and

(viii) A statement that any person may submit written comments, a written request for a public hearing or both, on the draft permit action. The reviewing authority must provide a period of at least 30 days from the date of the public notice for comments and for requests for a public hearing.

(c) *How will the public comment and will there be a public hearing?*

(1) Any person may submit written comments on the draft permit and may request a public hearing. These comments must raise any reasonably ascertainable issue with supporting arguments by the close of the public comment period (including any public hearing). The reviewing authority must consider all comments in making the final decision. The reviewing authority must keep a record of the commenters and of the issues raised during the public participation process and such records must be available to the public.

(2) The reviewing authority must extend the public comment period under paragraph (b) of this section to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.

(3) A request for a public hearing must be in writing and must state the nature of the issues proposed to be raised at the hearing.

(4) The reviewing authority must hold a hearing whenever there is, on the basis of requests, a significant degree of public interest in a draft permit. The reviewing authority may also hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision. The reviewing authority must provide notice of any public hearing at least 30 days prior to the date of the hearing. Public notice of the hearing may be concurrent with that of the draft permit and the two notices may be combined. Reasonable limits may be set upon the time allowed for oral statements at the hearing.

(5) The reviewing authority must make a tape recording or written transcript of any hearing available to the public.

§ 49.172 Final permit issuance and administrative and judicial review.

(a) *How will final action occur and when will my permit become effective?* After making a decision on a permit, the reviewing authority must notify you of the decision, in writing and if the permit is denied, provide the reasons for such denial and the procedures for appeal. If the reviewing authority issues a final permit to you, it must make a copy of the permit available at any location where the draft permit was made available. In addition, the reviewing authority must provide adequate public notice of the final permit decision to ensure that the affected community, general public and any individuals who commented on the draft permit have reasonable access to the decision and supporting materials. A final permit becomes effective 30 days after service of notice of the final permit decision, unless:

(1) A later effective date is specified in the permit or

(2) Review of the final permit is requested under paragraph (d) of this section (in which case the specific terms and conditions of the permit that are the subject of the request for review must be stayed) or

(3) The draft permit was subjected to a public comment period and no comments requested a change in the draft permit or a denial of the permit, in which case the reviewing authority may make the permit effective immediately upon issuance.

(b) *For how long will the reviewing authority retain my permit-related records?* The records, including any required applications for each draft and final permit or application for permit revision, must be kept by the reviewing authority for not less than 5 years.

(c) *What is the administrative record for each final permit?*

(1) The reviewing authority must base final permit decisions on an administrative record consisting of:

(i) All comments received during any public comment period, including any extension or reopening;

(ii) The tape or transcript of any hearing(s) held;

(iii) Any written material submitted at such a hearing;

(iv) Any new materials placed in the record as a result of the reviewing authority's evaluation of public comments;

(v) Other documents in the supporting files for the permit that were relied upon in the decision-making;

(vi) The final permit;

(vii) The application and any supporting data furnished by you, the permit applicant;

(viii) The draft permit or notice of intent to deny the application or to terminate the permit and

(ix) Other documents in the supporting files for the draft permit that were relied upon in the decision-making.

(2) The additional documents required under paragraph (c)(1) of this section should be added to the record as soon as possible after their receipt or publication by the reviewing authority. The record must be complete on the date the final permit is issued.

(3) Material readily available or published materials that are generally available and that are included in the administrative record under the standards of paragraph (c)(1) of this section need not be physically included in the same file as the rest of the record as long as it is specifically referred to in that file.

(d) *Can permit decisions be appealed?* Permit decisions may be appealed according to the following provisions:

(1) The Administrator delegates authority to the Environmental Appeals Board (the Board) to issue final decisions in permit appeals filed under this program. An appeal directed to the Administrator, rather than to the Board, will not be considered. This delegation does not preclude the Board from referring an appeal or a motion under this program to the Administrator when the Board, in its discretion, deems it appropriate to do so. When an appeal or motion is referred to the Administrator by the Board, all parties shall be so notified and the provisions of this program referring to the Board shall be interpreted as referring to the Administrator.

(2) Within 30 days after a final permit decision has been issued, any person who filed comments on the draft permit or participated in the public hearing may petition the Board to review any condition of the permit decision. Any person who failed to file comments or failed to participate in the public hearing on the draft permit may petition for administrative review only to the extent that the changes from the draft to the final permit or other new grounds were not reasonably ascertainable during the public comment period on the draft permit. The 30-day period within which a person may request review under this section begins with the service of notice of the final permit decision, unless a later date is specified in that notice.

(3) The petition must include a statement of the reasons supporting the review, including a demonstration that any issues being raised were raised during the public comment period (including any public hearing) to the extent required by these regulations, unless the petitioner demonstrates that it was impracticable to raise such objections were not reasonably

ascertainable within such period or unless the grounds for such objection arose after such period and, when appropriate, a showing that the condition in question is based on:

(i) A finding of fact or conclusion of law that is clearly erroneous or

(ii) An exercise of discretion or an important policy consideration that the Board should, in its discretion, review.

(4) The Board may also decide on its own initiative to review any condition of any permit issued under this program.

(5) Within a reasonable time following the filing of the petition for review, the Board will issue an order either granting or denying the petition for review. To the extent review is denied, the conditions of the final permit decision become final agency action. If the Board grants review in response to requests under paragraph (d)(2)–(3) or (4) of this section, public notice must be given as provided in § 49.171(b). Public notice must set forth a briefing schedule for the appeal and must state that any interested person may file an amicus brief. If the Board denies review, you, the permit applicant and the person(s) requesting review must be notified through means that are adequate to assure reasonable access to the decision, which may include mailing a notice to each party.

(6) The reviewing authority, at any time prior to the rendering of the decision under paragraph (d)(5) of this section to grant or deny review of a permit decision, may, upon notification to the Board and any interested parties, withdraw the permit and prepare a new draft permit addressing the portions so withdrawn. The new draft permit shall proceed through the same process of public comment and opportunity for a public hearing as would apply to any other draft permit subject to this part.

(7) A petition to the Board under paragraph (d)(2) of this section is, under section 307(b) of the Act, a prerequisite to seeking judicial review of the final agency action.

(8) For purposes of judicial review, final agency action occurs when a final permit is issued or denied by the reviewing authority and agency review procedures are exhausted. A final permit decision will be issued by the reviewing authority:

(i) When the Board issues notice to the parties that review has been denied;

(ii) When the Board issues a decision on the merits of the appeal and the decision does not include a remand of the proceedings or

(iii) Upon the completion of remand proceedings if the proceedings are remanded, unless the Board's remand order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.

(9) The reviewing authority shall promptly publish in the **Federal Register** notice of any final agency action on a permit.

(10) Motions to reconsider a final order must be filed within 10 days after service of the final order. Every such motion must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. Motions for reconsideration under this provision must be directed to and decided by, the Board. Motions for reconsideration directed to the Administrator, rather than to the Board, will not be considered, except in cases the Board has referred to the Administrator pursuant to § 49.172(d)(1) and in which the Administrator has issued the final order. A motion for reconsideration will not stay the effective date of the final order unless specifically so ordered by the Board.

(11) For purposes of this section, time periods are computed as follows:

(i) Any time period scheduled to begin on the occurrence of an act or event must begin on the day after the act or event.

(ii) Any time period scheduled to begin before the occurrence of an act or event must be computed so that the period ends on the day before the act or event, except as otherwise provided.

(iii) If the final day of any time period falls on a weekend or legal holiday, the time period must be extended to the next working day.

(iv) Whenever a party or interested person has the right or is required to act within a prescribed period after the service of notice or other paper upon him or her by mail, 3 days must be added to the prescribed time.

(e) *Can my permit be reopened?* The reviewing authority may reopen an existing, currently-in-effect permit for cause on its own initiative, such as if it contains a material mistake or fails to assure compliance with applicable requirements. However, except for those permit reopenings that do not increase the emissions limitations in the permit, such as permit reopenings that correct typographical, calculation and other errors, all other permit reopenings shall be carried out after the opportunity of public notice and comment and in accordance with one or more of the public participation requirements under § 49.171(b)(1)(ii).

§ 49.173 Administration and delegation of the nonattainment major NSR program in Indian country.

(a) *Who administers a nonattainment major NSR program in Indian country?*

(1) If the Administrator has approved a TIP that includes a major NSR program for sources in nonattainment areas of Indian country that meets the requirements of part D of title I of the Act and § 51.165 of this chapter, the Tribe is the reviewing authority and will administer the approved major NSR program under Tribal law.

(2) If the Administrator has not approved an implementation plan, the Administrator may delegate the authority to assist EPA with administration of portions of this Federal nonattainment major NSR program implemented under Federal authority to a Tribal agency upon request, in accordance with the provisions of paragraph (b) of this section. If the Tribal agency has been granted such delegation, it will have the authority to assist EPA according to paragraph (b) of this section and it will be the reviewing authority for purposes of the provisions for which it has been granted delegation.

(3) If the Administrator has not approved an implementation plan or granted delegation to a Tribal agency, the Administrator is the reviewing authority and will directly administer all aspects of this Federal nonattainment major NSR program in Indian country under Federal authority.

(b) *Delegation of administration of the Federal nonattainment major NSR program to Tribes.* This paragraph (b) establishes the process by which the Administrator may delegate authority to a Tribal agency, with or without signature authority, to assist EPA with administration of portions of this Federal nonattainment major NSR program, in accordance with the provisions in paragraphs (b)(1) through (8) of this section. Any Federal requirements under this program that are administered by the delegate Tribal agency will be subject to enforcement by EPA under Federal law. This section provides for administrative delegation of the Federal nonattainment major NSR program and does not affect the eligibility criteria under § 49.6 for treatment in the same manner as a state.

(1) *Information to be included in the Administrative Delegation Request.* In order to be delegated authority to assist EPA with administration of this FIP permit program for sources, the Tribal agency must submit a request to the Administrator that:

(i) Identifies the specific provisions for which delegation is requested;

(ii) Identifies the Indian Reservation or other areas of Indian country for which delegation is requested;

(iii) Includes a statement by the applicant's legal counsel (or equivalent official) that includes the following information:

(A) A statement that the applicant is a Tribe recognized by the Secretary of the Interior;

(B) A descriptive statement that is consistent with the type of information described in § 49.7(a)(2) demonstrating that the applicant is currently carrying out substantial governmental duties and powers over a defined area and

(C) A description of the laws of the Tribe that provide adequate authority to administer the Federal rules and provisions for which delegation is requested and

(iv) A demonstration that the Tribal agency has the technical capability and adequate resources to administer the FIP provisions for which the delegation is requested.

(2) *Delegation of Partial Administrative Authority Agreement.* A Delegation of Partial Administrative Authority Agreement (Agreement) will set forth the terms and conditions of the delegation, will specify the provisions that the delegate Tribal agency will be authorized to implement on behalf of EPA and will be entered into by the Administrator and the delegate Tribal agency. The Agreement will become effective upon the date that both the Administrator and the delegate Tribal agency have signed the Agreement or as otherwise stated in the Agreement. Once the delegation becomes effective, the delegate Tribal agency will be responsible, to the extent specified in the Agreement, for assisting EPA with administration of the provisions of the Federal nonattainment major NSR program that are subject to the Agreement.

(3) *Publication of notice of the Agreement.* The Administrator will publish a notice in the **Federal Register** informing the public of any Agreement for a particular area of Indian country. The Administrator also will publish the notice in a newspaper of general circulation in the area affected by the delegation. In addition, the Administrator will mail a copy of the notice to persons on a mailing list developed by the Administrator consisting of those persons who have requested to be placed on such a mailing list.

(4) *Revision or revocation of an Agreement.* An Agreement may be modified, amended or revoked, in part or in whole, by the Administrator after consultation with the delegate Tribal agency.

(5) *Transmission of information to the Administrator.* When administration of a portion of the Federal nonattainment major NSR program in Indian country that includes receipt of permit application materials and preparation of draft permits has been delegated in accordance with the provisions of this section, the delegate Tribal agency must provide to the Administrator a copy of each permit application (including any application for permit revision) and each draft permit. You, the permit applicant, may be required by the delegate Tribal agency to provide a copy of the permit application directly to the Administrator. With the Administrator's consent, the delegate Tribal agency may submit to the Administrator a permit application summary form and any relevant portion of the permit application, in place of the complete permit application. To the extent practicable, the preceding information should be provided in electronic format by the delegate Tribal agency or by you, the permit applicant, as applicable and as requested by the Administrator. The delegate Tribal agency must also submit to the Administrator such information as the Administrator may reasonably require to ascertain whether the delegate Tribal agency is implementing and administering the delegated program in compliance with the requirements of the Act and of this program.

(6) *Waiver of information transmission requirements.* The Administrator may waive the requirements of paragraph (b)(5) of this section for any category of sources (including any class, type or size within such category) by transmitting the waiver in writing to the delegate Tribal agency.

(7) *Retention of records.* Where a delegate Tribal agency prepares draft or final permits or receives applications for permit revisions on behalf of EPA, the records for each draft and final permit or application for permit revision must be kept by the delegate Tribal agency for a period not less than 5 years.

(8) *Delegation of signature authority.* To receive delegation of signature authority, the legal statement submitted by the Tribal agency pursuant to paragraph (b)(1) of this section must certify that no applicable provision of Tribal law requires that a major NSR permit be issued after a certain time if the delegate Tribal agency has failed to take action on the application (or includes any other similar provision providing for default issuance of a permit).

(c) *Are there any non-delegable elements of the Federal nonattainment major NSR program in Indian country?* The following authorities cannot be delegated outside of EPA:

(1) The Administrator's authority to object to the issuance of a major NSR permit.

(2) The Administrator's authority to enforce permits issued pursuant to this program.

(d) *How will EPA transition its authority to an approved nonattainment major NSR program?*

(1) The Administrator will suspend the issuance of nonattainment major NSR permits under this program promptly upon publication of notice of approval of a TIP with a major NSR permit program for nonattainment areas.

(2) The Administrator may retain jurisdiction over the permits for which the administrative or judicial review process is not complete and will address this issue in the notice of program approval.

(3) After approval of a program for issuing nonattainment major NSR permits and the suspension of issuance of nonattainment major NSR permits by the Administrator, the Administrator will continue to administer nonattainment major NSR permits until permits are issued under the approved Tribal implementation plan program.

(4) Permits previously issued under this program will remain in effect and be enforceable as a practical matter until and unless the Tribe issues new permits to these sources based on the provisions of the EPA-approved Tribal implementation plan.

PART 51—[AMENDED]

■ 4. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

■ 5. Appendix S to part 51 is amended by revising paragraph II.B and adding condition 5 to paragraph IV.A to read as follows:

Appendix S to Part 51—Emission Offset Interpretative Ruling

* * * * *

II. * * *

B. *Review of all sources for emission limitation compliance.* The reviewing authority must examine each proposed major new source and proposed major modification [1] to determine if such a source will meet all applicable emission requirements in the SIP, any applicable new source performance standard in part 60 or any national emission standard for hazardous

[1] Hereafter the term *source* will be used to denote both any source and any modification.

air pollutants in part 61 or part 63 of this chapter. If the reviewing authority determines that the proposed major new source cannot meet the applicable emission requirements, the permit to construct must be denied.

IV. * * *

A. * * *

Condition 5. The permit applicant shall conduct an analysis of alternative sites, sizes, production processes and environmental control techniques for such proposed source that demonstrates that the benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction or modification.

* * * * *

[FR Doc. 2011–14981 Filed 6–30–11; 8:45 am]

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Part III

Department of Housing and Urban Development

Federal Property Suitable as Facilities To Assist the Homeless; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5477–N–26]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 7266, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Theresa Ritta, Division of Property Management, Program Support Center, HHS, Room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Army:* Ms. Veronica Rines, Department of the Army, Office of the Assistant Chief of Staff for Installation Management, DAIM–ZS, Room 8536, 2511 Jefferson Davis Hwy., Arlington, VA 22202: (571) 256–8145; *Energy:* Mr. Mark Price, Department of Energy, Office of Engineering & Construction Management, MA–50, 1000 Independence Ave., SW., Washington, DC 20585: (202) 586–5422; *GSA:* Mr. John E.B. Smith, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street, NW., Room 7040, Washington, DC 20405; (202) 501–0084; *Navy:* Mr. Albert Johnson, Department of the Navy, Asset Management Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave., SW., Suite 1000, Washington, DC 20374; (202) 685–9305; (These are not toll-free numbers).

Dated: June 23, 2011.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

Title V, Federal Surplus Property Program Federal Register Report For 07/01/2011

SUITABLE/AVAILABLE PROPERTIES

BUILDING

Alabama

Bldgs. 4704 & 4707
Andrews Ave Motor pool
Fort Rucker AL 36362
Landholding Agency: Army
Property Number: 21201110019
Status: Unutilized
Comments: Off-site removal only, bldg 4704—2600 sq. ft. and bldg. 4707—120 sq. ft., current use: vehicle maint. shop for bldg. 4704 and dispatch—bldg 4707, fair conditions; need repairs

Alaska

Bldg. 00001
Kiana Nat'l Guard Armory
Kiana AK 99749
Landholding Agency: Army
Property Number: 21200340075
Status: Excess
GSA Number:
Comments: 1200 sq. ft., butler bldg., needs repair, off-site use only

Bldg. 00001
Holy Cross Armory
High Cross AK 99602
Landholding Agency: Army
Property Number: 21200710051
Status: Excess
Comments: 1200 sq. ft. armory, off-site use only

Bldg. 136
Ft. Richardson
Ft. Richardson AK 99505
Landholding Agency: Army
Property Number: 21200820147
Status: Excess
Comments: 2383 sq. ft., most recent use—housing, off-site use only

Arizona

Bldg. S–306
Yuma Proving Ground
Yuma AZ 85365–9104
Landholding Agency: Army
Property Number: 21199420346

Status: Unutilized
Directions:
Comments: 4103 sq. ft., 2-story, needs major rehab, off-site use only

Bldg. 503, Yuma Proving Ground
null
Yuma AZ 85365–9104
Landholding Agency: Army
Property Number: 21199520073
Status: Underutilized
Directions:
Comments: 3789 sq. ft., 2-story, major structural changes required to meet floor loading code requirements, presence of asbestos, off-site use only

Bldg. 43002
Fort Huachuca
Cochise AZ 85613–7010
Landholding Agency: Army
Property Number: 21200440066
Status: Excess
Comments: 23,152 sq. ft., presence of asbestos/lead paint, most recent use—dining, off-site use only

Bldg. 90551
Fort Huachuca
Cochise AZ 85613
Landholding Agency: Army
Property Number: 21200920001
Status: Excess
Comments: 1270 sq. ft., most recent use—office, off-site use only

California

Bldgs. 18026, 18028
Camp Roberts
Monterey CA 93451–5000
Landholding Agency: Army
Property Number: 21200130081
Status: Excess
GSA Number:
Comments: 2024 sq. ft. sq. ft., concrete, poor condition, off-site use only

Colorado

Bldg. 00127
Pueblo Chemical Depot
Pueblo CO 81006
Landholding Agency: Army
Property Number: 21200420179
Status: Unutilized
Comments: 8067 sq. ft., presence of asbestos, most recent use—barracks, off-site use only

Bldg. 01516
Fort Carson
El Paso CO 80913
Landholding Agency: Army
Property Number: 21200640116
Status: Unutilized
Comments: 723 sq. ft., needs repair, most recent use—storage, off-site use only

Georgia

Bldg. 322
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21199720156
Status: Unutilized
Directions:
Comments: 9600 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. 2593
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21199720167
Status: Unutilized
Directions:
Comments: 13644 sq. ft., needs rehab, most recent use—parachute shop, off-site use only

Bldg. 2595
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21199720168
Status: Unutilized
Directions:
Comments: 3356 sq. ft., needs rehab, most recent use—chapel, off-site use only

Bldg. 4232
Fort Benning
GA 31905
Landholding Agency: Army
Property Number: 21199830291
Status: Unutilized
Directions:
Comments: 3720 sq. ft., needs rehab, most recent use—maint. bay, off-site use only

Bldgs. 5974–5978
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21199930135
Status: Unutilized
GSA Number:
Comments: 400 sq. ft., most recent use—storage, off-site use only

Bldg. 5993
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21199930136
Status: Unutilized
GSA Number:
Comments: 960 sq. ft., most recent use—storage, off-site use only

Bldg. 4476
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200420034
Status: Excess
Comments: 3148 sq. ft., most recent use—veh. maint. shop, off-site use only

Bldg. 9029
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200420050
Status: Excess
Comments: 7356 sq. ft., most recent use—heat plant bldg., off-site use only

Bldg. 00100
Hunter Army Airfield
Chatham GA 31409
Landholding Agency: Army
Property Number: 21200740052
Status: Excess
Comments: 10893 sq. ft., most recent use—battalion hdqts., off-site use only

Bldg. 00129
Hunter Army Airfield
Chatham GA 31409
Landholding Agency: Army
Property Number: 21200740053
Status: Excess
Comments: 4815 sq. ft., presence of asbestos, most recent use—religious education facility, off-site use only

Bldg. 00145
Hunter Army Airfield
Chatham GA 31409
Landholding Agency: Army
Property Number: 21200740054
Status: Excess
Comments: 11590 sq. ft., presence of asbestos, most recent use—post chapel, off-site use only

Bldg. 00811
Hunter Army Airfield
Chatham GA 31409
Landholding Agency: Army
Property Number: 21200740055
Status: Excess
Comments: 42853 sq. ft., most recent use—co hq. bldg, off-site use only

Bldg. 00812
Hunter Army Airfield
Chatham GA 31409
Landholding Agency: Army
Property Number: 21200740056
Status: Excess
Comments: 1080 sq. ft., most recent use—power plant, off-site use only

Bldg. 00850
Hunter Army Airfield
Chatham GA 31409
Landholding Agency: Army
Property Number: 21200740057
Status: Excess
Comments: 108,287 sq. ft., presence of asbestos, most recent use—aircraft hangar, off-site use only

Bldg. 00860
Hunter Army Airfield
Chatham GA 31409
Landholding Agency: Army
Property Number: 21200740058
Status: Excess
Comments: 10679 sq. ft., presence of asbestos, most recent use—maint. hangar, off-site use only

Bldg. 00971
Fort Stewart
Hinesville GA 31314
Landholding Agency: Army
Property Number: 21200740062
Status: Excess
Comments: 4000 sq. ft., most recent use—vehicle maint., off-site use only

Bldg. 01209
Fort Stewart
Hinesville GA 31314
Landholding Agency: Army
Property Number: 21200740064
Status: Excess
Comments: 4786 sq. ft., presence of asbestos, most recent use—vehicle maint., off-site use only

Bldg. 245
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200740178
Status: Unutilized
Comments: 1102 sq. ft., most recent use—fld ops, off-site use only

Bldg. 2748
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200740180
Status: Unutilized

Comments: 3990 sq. ft., most recent use—office, off-site use only

Bldg. 3866
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200740182
Status: Unutilized
Comments: 944 sq. ft., most recent use—office, off-site use only

Bldg. 8682
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200740183
Status: Unutilized
Comments: 780 sq. ft., most recent use—admin., off-site use only

Bldg. 10800
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200740184
Status: Unutilized
Comments: 16,628 sq. ft., off-site use only

Bldgs. 11302, 11303, 11304
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200740185
Status: Unutilized
Comments: various sq. ft., most recent use—ACS center, off-site use only

Bldg. 0297
Ft. Benning
Chattahoochie GA 31905
Landholding Agency: Army
Property Number: 21200810045
Status: Excess
Comments: 4839 sq. ft., most recent use—riding stable, off-site use only

Bldg. 3819
Ft. Benning
Chattahoochie GA 31905
Landholding Agency: Army
Property Number: 21200810046
Status: Excess
Comments: 4241 sq. ft., most recent use—training, off-site use only

Bldg. 10802
Ft. Benning
Chattahoochie GA 31905
Landholding Agency: Army
Property Number: 21200810047
Status: Excess
Comments: 3182 sq. ft., most recent use—storage, off-site use only

Bldg. 01021
Hunter Army Airfield
Savannah GA 31409
Landholding Agency: Army
Property Number: 21200840062
Status: Excess
Comments: 6855 sq. ft., most recent use—admin., presence of asbestos, off-site use only

6 Bldgs.
Fort Benning
Fort Benning GA 31905
Landholding Agency: Army
Property Number: 21201110038
Status: Underutilized
Directions: Bldgs. 02452, 02680, 02864, 02865, 02866, 02867
Comments: Off-site removal only; sq. ft. varies; current use varies; all bldgs. in poor condition—need repairs

7 Bldgs.
Ft. Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21201110051
Status: Underutilized
Directions: 02868, 02867, 02870, 02871, 02872, 02873, 02875
Comments: off-site removal only, multiple bldgs. w/varies sq. ft., current use varies from ea. bldg., bldgs. in poor conditions—needs repairs

Hawaii

P–88
Aliamanu Military Reservation
Honolulu HI 96818
Landholding Agency: Army
Property Number: 21199030324
Status: Unutilized
Directions: Approximately 600 feet from Main Gate on Aliamanu Drive
Comments: 45,216 sq. ft. underground tunnel complex, pres. of asbestos clean-up required of contamination, use of respirator required by those entering property, use limitations

Illinois

Bldg. AR112
Sheridan Reserve
Arlington Heights IL 60052–2475
Landholding Agency: Army
Property Number: 21200110081
Status: Unutilized
GSA Number:
Comments: 1000 sq. ft., off-site use only

Bldgs. 634, 639
Fort Sheridan
Ft. Sheridan IL 60037
Landholding Agency: Army
Property Number: 21200740186
Status: Unutilized
Comments: 3731/3706 sq. ft., most recent use—classroom/storage, off-site use only

Iowa

Prairie Ridge Pak
12766 200th
Moravia IA 52571
Landholding Agency: Army
Property Number: 21201110002
Status: Underutilized
Comments: 180 sq. ft., off site removal only, most recent use: fee booth, walls are contaminated w/mold—walls need to be replaced

Kansas

10 Bldgs.
9081 Vinton School Rd.
Fort Riley KS 66442
Landholding Agency: Army
Property Number: 21201110009
Status: Unutilized
Directions: 09081, 00179, 09004, 09016, 09074, 09008, 09383, 09384, 09386, 09451
Comments: Off-site removal only; multiple bldgs. w/various sq. footage (80–660 sq. ft.) very poor condition, needs major repairs; current use varies

Ft. Riley U.S. Army Reservation
9377 6800 N RD
Fort Riley KS 66442
Landholding Agency: Army
Property Number: 21201110010
Status: Unutilized
Directions: 10 bldgs: 09377, 09302, 09082, 09083, 09084, 09385, 07033, 07034, 07036, 09015
Comments: Off-site removal only; multiple bldgs. w/various sq. footage (610–10,010 sq. ft.), Current use varies) office to range operation support, very poor conditions—need major repairs

5 Bldgs.
Fort Riley
Fort Riley KS 66442
Landholding Agency: Army
Property Number: 21201110016
Status: Unutilized
Directions: Bldgs. 09451, 08369, 07123, 1990, 07816
Comments: Off-site removal only, sq. footage varies w. each bldg; current use varies (gas chamber—storage), some bldgs., need repairs

5 Bldgs.
Fort Riley
Fort Riley KS 66442
Landholding Agency: Army
Property Number: 21201110017
Status: Unutilized
Directions: Bldgs. 01781, 07818, 08324, 07739, 8329
Comments: Off-site removal only, sq. ft. varies for each bldg., current use varies (oil storage bldg.—training ctr.), repairs needed for buildings

5 Bldgs.
Fort Riley
Fort Riley KS 66442
Landholding Agency: Army
Property Number: 21201110018
Status: Unutilized
Directions: Bldgs. 01780, 09383, 08322, 08320, 08328
Comments: Off-site removal only, sq. ft. varies, current use varies (training ctr.—dispatch bldg.), poor conditions; need repairs for all

Bldg. 00542
542 Huebner Road
Fort Riley USAR
Fort Riley KS
Landholding Agency: Army
Property Number: 21201120066
Status: Unutilized
Comments: Off-Site removal only, 14,528 sq. ft.; wood; recent use: Army lodging

Bldg. 08327
8327 Wells St.
Fort Riley USAR
Fort Riley KS
Landholding Agency: Army
Property Number: 21201120067
Status: Unutilized
Comments: Off-Site Removal Only, 9,600 sq. ft.; steel; recent use: Training aid center

Bldg. 00600
600 Caisson Hill Rd.
Ft. Riley USAR
Fort Riley KS
Landholding Agency: Army
Property Number: 21201120070
Status: Unutilized
Comments: Off-Site Removal Only, 380,376 sq. ft.; recent use: Hospital; off site removal only

Bldg. 00541
541 Huebner Rd.
Fort Riley KS
Landholding Agency: Army
Property Number: 21201120075
Status: Unutilized
Comments: Off-Site Removal Only, 18, 083 sq. ft.; recent use: Army Lodging; wood; 45 yrs old; off site removal only

Bldg. 08321
8321 Wells St.
Fort Riley KS
Landholding Agency: Army
Property Number: 21201120076
Status: Unutilized
Comments: Off-site removal only, 5,060 sq. ft.; concrete block; recent use: Training aid center

Bldg. 00470
470 Huebner Rd.
Fort Riley KS
Landholding Agency: Army
Property Number: 21201120077
Status: Unutilized
Comments: Off-Site Removal Only, 3,787 sq. ft.; concrete; recent use: Lodging

Bldg. 8320
8320 Wells St.
Fort Riley KS
Landholding Agency: Army
Property Number: 21201120080
Status: Unutilized
Comments: Off-Site Removal Only, 20,240 sq. ft.; concrete bldg.; recent use training aids center

Bldg. 00540
540 Huebner Road
Fort Riley KS
Landholding Agency: Army
Property Number: 21201120084
Status: Unutilized
Comments: Off-Site Removal Only, 14,528 sq. ft.; wood structure; recent use; Army lodging; off site removal only

Bldg. 00471
471 Huebner Road
Fort Riley KS
Landholding Agency: Army
Property Number: 21201120086
Status: Unutilized
Comments: Off-Site Removal Only, 3,547 sq. ft.; 39 yrs old, concrete; recent use; Army lodging; off site removal only

Kentucky

Fort Knox
Eisenhower Avenue
Fort Knox KY 40121
Landholding Agency: Army
Property Number: 21201110011
Status: Unutilized
Directions: Bldgs. 06559, 06571, 06575, 06583, 06584, 06585, 06586
Comments: Off-site removal only; multiple bldgs. w/various sq. footage (2,578–8,440 sq. ft.), current use varies (classroom—dental clinic), lead base paint, asbestos & mold identified

Fort Knox, 10 Bldgs.
Bacher Street
2nd Dragoons Rd & Abel St
Fort Knox KY 40121
Landholding Agency: Army
Property Number: 21201110012
Status: Unutilized
Directions: Bldgs. 06547, 06548, 06549, 06550, 06551, 06552, 06553, 06554, 06557, 06558
Comments: Off-site removal only, multiple bldgs. w/various sq. footage (8,527–41,631 sq. ft.) lead base paint, asbestos & mold identified in all bldgs. Current use varies

Fort Knox, 10 Bldgs.
Eisenhower Ave
Fort Knox KY 40121
Landholding Agency: Army
Property Number: 21201110015
Status: Unutilized
Directions: Bldgs. 06535, 06536, 06537, 06539, 06540, 06541, 06542, 06544, 06545, 06546
Comments: Off-site removal only, multiple bldgs. w/various sq. ft. (2,510–78,436 sq. ft.) lead base paint, asbestos & mold has been identified in all bldgs. Current use varies

Louisiana

Bldg. 8423, Fort Polk
null
Ft. Polk LA 71459
Landholding Agency: Army
Property Number: 21199640528
Status: Underutilized
Directions:
Comments: 4172 sq. ft., most recent use—barracks

Bldg. T7125
Fort Polk
Ft. Polk LA 71459
Landholding Agency: Army
Property Number: 21200540088
Status: Unutilized
Comments: 1875 sq. ft., off-site use only

Bldgs. T7163, T8043
Fort Polk
Ft. Polk LA 71459
Landholding Agency: Army
Property Number: 21200540089
Status: Unutilized
Comments: 4073/1923 sq. ft., off-site use only

Maryland

Bldg. 0459B
Aberdeen Proving Ground
Aberdeen MD 21005–5001
Landholding Agency: Army
Property Number: 21200120106
Status: Unutilized
GSA Number:
Comments: 225 sq. ft., poor condition, most recent use—equipment bldg., off-site use only

Bldg. 00785
Aberdeen Proving Ground
Aberdeen MD 21005–5001
Landholding Agency: Army
Property Number: 21200120107
Status: Unutilized
GSA Number:
Comments: 160 sq. ft., poor condition, most recent use—shelter, off-site use only

Bldg. E5239
Aberdeen Proving Ground
Aberdeen MD 21005–5001
Landholding Agency: Army
Property Number: 21200120113
Status: Unutilized
GSA Number:
Comments: 230 sq. ft., most recent use—storage, off-site use only

Bldg. E5317
Aberdeen Proving Ground
Aberdeen MD 21005–5001
Landholding Agency: Army
Property Number: 21200120114
Status: Unutilized
GSA Number:
Comments: 3158 sq. ft., presence of asbestos/lead paint, most recent use—lab, off-site use only

Bldg. E5637
Aberdeen Proving Ground
Aberdeen MD 21005–5001
Landholding Agency: Army
Property Number: 21200120115
Status: Unutilized
GSA Number:
Comments: 312 sq. ft., presence of asbestos/lead paint, most recent use—lab, off-site use only

Bldg. 219
Ft. George G. Meade
Ft. Meade MD 20755
Landholding Agency: Army
Property Number: 21200140078
Status: Unutilized
GSA Number:
Comments: 8142 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 294
Ft. George G. Meade
Ft. Meade MD 20755
Landholding Agency: Army
Property Number: 21200140081
Status: Unutilized
GSA Number:
Comments: 3148 sq. ft., presence of asbestos/lead paint, most recent use—entomology facility, off-site use only

Bldg. 1007
Ft. George G. Meade
Ft. Meade MD 20755
Landholding Agency: Army
Property Number: 21200140085
Status: Unutilized
GSA Number:
Comments: 3108 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2214
Fort George G. Meade
Fort Meade MD 20755
Landholding Agency: Army
Property Number: 21200230054
Status: Unutilized
GSA Number:
Comments: 7740 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 00375
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200320107
Status: Unutilized
GSA Number:
Comments: 64 sq. ft., most recent use—storage, off-site use only

Bldg. 0385A
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200320110
Status: Unutilized

GSA Number:
Comments: 944 sq. ft., off-site use only

Bldg. 00523
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200320113
Status: Unutilized
GSA Number:
Comments: 3897 sq. ft., most recent use—paint shop, off-site use only

Bldg. 0700B
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200320121
Status: Unutilized
GSA Number:
Comments: 505 sq. ft., off-site use only

Bldg. 01113
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200320128
Status: Unutilized
GSA Number:
Comments: 1012 sq. ft., off-site use only

Bldgs. 01124, 01132
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200320129
Status: Unutilized
GSA Number:
Comments: 740/2448 sq. ft., most recent use—lab, off-site use only

Bldg. 03558
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200320133
Status: Unutilized
GSA Number:
Comments: 18,000 sq. ft., most recent use—storage, off-site use only

Bldg. 05262
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200320136
Status: Unutilized
GSA Number:
Comments: 864 sq. ft., most recent use—storage, off-site use only

Bldg. 05608
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200320137
Status: Unutilized
GSA Number:
Comments: 1100 sq. ft., most recent use—maint bldg., off-site use only

Bldg. E5645
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200320150
Status: Unutilized
GSA Number:
Comments: 548 sq. ft., most recent use—storage, off-site use only

Bldg. 00435
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330111
Status: Unutilized
GSA Number:
Comments: 1191 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 0449A
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330112
Status: Unutilized
GSA Number:
Comments: 143 sq. ft., needs rehab, most recent use—substation switch bldg., off-site use only

Bldg. 0460
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330114
Status: Unutilized
GSA Number:
Comments: 1800 sq. ft., needs rehab, most recent use—electrical EQ bldg., off-site use only

Bldg. 00914
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330118
Status: Unutilized
GSA Number:
Comments: Needs rehab, most recent use—safety shelter, off-site use only

Bldg. 00915
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330119
Status: Unutilized
GSA Number:
Comments: 247 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 01189
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330126
Status: Unutilized
GSA Number:
Comments: 800 sq. ft., needs rehab, most recent use—range bldg., off-site use only

Bldg. E1413
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330127
Status: Unutilized
GSA Number:
Comments: Needs rehab, most recent use—observation tower, off-site use only

Bldg. E3175
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330134
Status: Unutilized
GSA Number:
Comments: 1296 sq. ft., needs rehab, most recent use—hazard bldg., off-site use only

4 Bldgs.
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330135
Status: Unutilized
GSA Number:
Directions: E3224, E3228, E3230, E3232, E3234
Comments: sq. ft. varies, needs rehab, most recent use—lab test bldgs., off-site use only

Bldg. E3241
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330136
Status: Unutilized
GSA Number:
Comments: 592 sq. ft., needs rehab, most recent use—medical res bldg., off-site use only

Bldg. E3300
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330139
Status: Unutilized
GSA Number:
Comments: 44,352 sq. ft., needs rehab, most recent use—chemistry lab, off-site use only

Bldg. E3335
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330144
Status: Unutilized
GSA Number:
Comments: 400 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldgs. E3360, E3362, E3464
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330145
Status: Unutilized
GSA Number:
Comments: 3588/236 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E3542
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330148
Status: Unutilized
GSA Number:
Comments: 1146 sq. ft., needs rehab, most recent use—lab test bldg., off-site use only

Bldg. E4420
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330151
Status: Unutilized
GSA Number:
Comments: 14,997 sq. ft., needs rehab, most recent use—police bldg., off-site use only

4 Bldgs.
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330154
Status: Unutilized
GSA Number:
Directions: E5005, E5049, E5050, E5051
Comments: sq. ft. varies, needs rehab, most recent use—storage, off-site use only

Bldg. E5068

Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330155
Status: Unutilized
GSA Number:
Comments: 1200 sq. ft., needs rehab, most recent use—fire station, off-site use only

Bldgs. 05448, 05449
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330161
Status: Unutilized
GSA Number:
Comments: 6431 sq. ft., needs rehab, most recent use—enlisted UHP, off-site use only

Bldg. 05450
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330162
Status: Unutilized
GSA Number:
Comments: 2730 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldgs. 05451, 05455
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330163
Status: Unutilized
GSA Number:
Comments: 2730/6431 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 05453
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330164
Status: Unutilized
GSA Number:
Comments: 6431 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. E5609
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330167
Status: Unutilized
GSA Number:
Comments: 2053 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E5611
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330168
Status: Unutilized
GSA Number:
Comments: 11,242 sq. ft., needs rehab, most recent use—hazard bldg., off-site use only

Bldg. E5634
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330169
Status: Unutilized
GSA Number:
Comments: 200 sq. ft., needs rehab, most recent use—flammable storage, off-site use only

Bldg. E5654
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330171
Status: Unutilized
GSA Number:
Comments: 21,532 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E5942
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330176
Status: Unutilized
GSA Number:
Comments: 2147 sq. ft., needs rehab, most recent use—igloo storage, off-site use only

Bldgs. E5952, E5953
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330177
Status: Unutilized
GSA Number:
Comments: 100/24 sq. ft., needs rehab, most recent use—compressed air bldg., off-site use only

Bldgs. E7401, E7402
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330178
Status: Unutilized
GSA Number:
Comments: 256/440 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E7407, E7408
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200330179
Status: Unutilized
GSA Number:
Comments: 1078/762 sq. ft., needs rehab, most recent use—decon facility, off-site use only

Bldg. 3070A
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200420055
Status: Unutilized
Comments: 2299 sq. ft., most recent use—heat plant, off-site use only

Bldg. E5026
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200420056
Status: Unutilized
Comments: 20,536 sq. ft., most recent use—storage, off-site use only

Bldg. 05261
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200420057
Status: Unutilized
Comments: 10067 sq. ft., most recent use—maintenance, off-site use only

Bldg. E5876
Aberdeen Proving Grounds
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200440073
Status: Unutilized
Comments: 1192 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 00688
Aberdeen Proving Ground
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200530080
Status: Unutilized
Comments: 24,192 sq. ft., most recent use—ammo, off-site use only

Bldg. 04925
Aberdeen Proving Ground
Aberdeen MD 21005
Landholding Agency: Army
Property Number: 21200540091
Status: Unutilized
Comments: 1326 sq. ft., off-site use only

Bldg. 00255
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200720052
Status: Unutilized
Comments: 64 sq. ft., most recent use—storage, off-site use only

Bldg. 00638
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200720053
Status: Unutilized
Comments: 4295 sq. ft., most recent use—storage, off-site use only

Bldg. 00721
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200720054
Status: Unutilized
Comments: 135 sq. ft., most recent use—storage, off-site use only

Bldgs. 00936, 00937
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200720055
Status: Unutilized
Comments: 2000 sq. ft., most recent use—storage, off-site use only

Bldgs. E1410, E1434
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200720056
Status: Unutilized
Comments: 2276/3106 sq. ft., most recent use—laboratory, off-site use only

Bldg. 03240
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200720057
Status: Unutilized
Comments: 10,049 sq. ft., most recent use—office, off-site use only

Bldg. E3834
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200720058
Status: Unutilized
Comments: 72 sq. ft., most recent use—office, off-site use only

Bldgs. E4465, E4470, E4480
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200720059
Status: Unutilized
Comments: 17658/16876/17655 sq. ft., most recent use—office, off-site use only

Bldgs. E5137, 05219
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200720060
Status: Unutilized
Comments: 3700/8175 sq. ft., most recent use—office, off-site use only

Bldg. E5236
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200720061
Status: Unutilized
Comments: 10,325 sq. ft., most recent use—storage, off-site use only

Bldg. E5282
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200720062
Status: Unutilized
Comments: 4820 sq. ft., most recent use—hazard bldg., off-site use only

Bldgs. E5736, E5846, E5926
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200720063
Status: Unutilized
Comments: 1069/4171/11279 sq. ft., most recent use—storage, off-site use only

Bldg. E6890
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200720064
Status: Unutilized
Comments: 1 sq. ft., most recent use—impact area, off-site use only

Bldg. 00310
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200820077
Status: Unutilized
Comments: 56516 sq. ft., most recent use—admin., off-site use only

Bldg. 00315
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820078
Status: Unutilized
Comments: 74396 sq. ft., most recent use—mach shop, off-site use only

Bldg. 00338
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820079
Status: Unutilized
Comments: 45443 sq. ft., most recent use—gnd tran eqp, off-site use only

Bldg. 00360
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820080
Status: Unutilized
Comments: 15287 sq. ft., most recent use—general inst., off-site use only

Bldg. 00445
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820081
Status: Unutilized
Comments: 6367 sq. ft., most recent use—lab, off-site use only

Bldg. 00851
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820082
Status: Unutilized
Comments: 694 sq. ft., most recent use—range bldg., off-site use only

E1043
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820083
Status: Unutilized
Comments: 5200 sq. ft., most recent use—lab, off-site use only

Bldg. 01089
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820084
Status: Unutilized
Comments: 12369 sq. ft., most recent use—veh maint, off-site use only

Bldg. 01091
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820085
Status: Unutilized
Comments: 2201 sq. ft., most recent use—storage, off-site use only

Bldg. E1386
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820086
Status: Unutilized
Comments: 251 sq. ft., most recent use—eng/mnt, off-site use only

5 Bldgs.
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820087
Status: Unutilized
Directions: E1440, E1441, E1443, E1445, E1455
Comments: 112 sq. ft., most recent use—safety shelter, off-site use only

Bldgs. E1467, E1485
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820088
Status: Unutilized
Comments: 160/800 sq. ft., most recent use—storage, off-site use only

Bldg. E1521
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820090
Status: Unutilized
Comments: 1200 sq. ft., most recent use—overhead protection, off-site use only

Bldg. E1570
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820091
Status: Unutilized
Comments: 47027 sq. ft., most recent use—office, off-site use only

Bldg. E1572
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820092
Status: Unutilized
Comments: 1402 sq. ft., most recent use—maint., off-site use only

4 Bldgs.
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820093
Status: Unutilized
Directions: E1645, E1675, E1677, E1930
Comments: Various sq. ft., most recent use—office, off-site use only

Bldgs. E2160, E2184, E2196
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820094
Status: Unutilized
Comments: 12440/13816 sq. ft., most recent use—storage, off-site use only

Bldg. E2174
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820095
Status: Unutilized
Comments: 132 sq. ft., off-site use only

Bldgs. 02208, 02209
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820096
Status: Unutilized
Comments: 11566/18085 sq. ft., most recent use—lodging, off-site use only

Bldg. 02353
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820097
Status: Unutilized
Comments: 19252 sq. ft., most recent use—veh maint, off-site use only

Bldgs. 02482, 02484
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820098
Status: Unutilized
Comments: 8359 sq. ft., most recent use—gen purp, off-site use only

Bldg. 02483
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army

Property Number: 21200820099
Status: Unutilized
Comments: 1360 sq. ft., most recent use—heat plt, off-site use only

Bldgs. 02504, 02505
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820100
Status: Unutilized
Comments: 11720/17434 sq. ft., most recent use—lodging, off-site use only

Bldgs. 02831, E3488
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820101
Status: Unutilized
Comments: 576/64 sq. ft., most recent use—access cnt fac, off-site use only

Bldg. 2831A
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820102
Status: Unutilized
Comments: 1200 sq. ft., most recent use—overhead protection, off-site use only

Bldg. 03320
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820103
Status: Unutilized
Comments: 10600 sq. ft., most recent use—admin, off-site use only

Bldg. E3466
Aberdeen Proving Ground
Aberdeen MD
Landholding Agency: Army
Property Number: 21200820104
Status: Unutilized
Comments: 236 sq. ft., most recent use—protective barrier, off-site use only

4 Bldgs.
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820105
Status: Unutilized
Directions:
E3510, E3570, E3640, E3832
Comments: various sq. ft., most recent use—lab, off-site use only

Bldg. E3544
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820106
Status: Unutilized
Comments: 5400 sq. ft., most recent use—ind waste, off-site use only

Bldgs. E3561, 03751
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820107
Status: Unutilized
Comments: 64/189 sq. ft., most recent use—access cnt fac, off-site use only

Bldg. 03754
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820108
Status: Unutilized
Comments: 324 sq. ft., most recent use—classroom, off-site use only

Bldg. 3823A
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820109
Status: Unutilized
Comments: 113 sq. ft., most recent use—shed, off-site use only

Bldg. E3948
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820110
Status: Unutilized
Comments: 3420 sq. ft., most recent use—emp chg fac, off-site use only

4 Bldgs.
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820111
Status: Unutilized
Directions:
E5057, E5058, E5246, 05258
Comments: various sq. ft., most recent use—storage, off-site use only

Bldgs. E5106, 05256
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820112
Status: Unutilized
Comments: 18621/8720 sq. ft., most recent use—office, off-site use only

Bldg. E5126
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820113
Status: Unutilized
Comments: 17664 sq. ft., most recent use—heat plt, off-site use only

Bldg. E5128
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820114
Status: Unutilized
Comments: 3750 sq. ft., most recent use—substation, off-site use only

Bldg. E5188
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820115
Status: Unutilized
Comments: 22790 sq. ft., most recent use—lab, off-site use only

Bldg. E5179
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820116
Status: Unutilized
Comments: 47335 sq. ft., most recent use—info sys, off-site use only

Bldg. E5190
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820117
Status: Unutilized
Comments: 874 sq. ft., most recent use—storage, off-site use only

Bldg. 05223
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820118
Status: Unutilized
Comments: 6854 sq. ft., most recent use—gen rep inst, off-site use only

Bldgs. 05259, 05260
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820119
Status: Unutilized
Comments: 10067 sq. ft., most recent use—maint, off-site use only

Bldgs. 05263, 05264
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820120
Status: Unutilized
Comments: 200 sq. ft., most recent use—org space, off-site use only

5 Bldgs.
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820121
Status: Unutilized
Directions: 05267, E5294, E5327, E5441, E5485
Comments: various sq. ft., most recent use—storage, off-site use only

Bldg. E5292
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820122
Status: Unutilized
Comments: 1166 sq. ft., most recent use—comp rep inst, off-site use only

Bldg. E5380
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820123
Status: Unutilized
Comments: 9176 sq. ft., most recent use—lab, off-site use only

Bldg. E5452
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820124
Status: Unutilized
Comments: 9623 sq. ft., off-site use only

Bldg. 05654
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820125
Status: Unutilized
Comments: 38 sq. ft. most recent use—shed, off-site use only

Bldg. 05656
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820126

Status: Unutilized
Comments: 2240 sq. ft., most recent use—overhead protection off-site use only

5 Bldgs.
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820127
Status: Unutilized
Directions: E5730, E5738, E5915, E5928, E6875
Comments: various sq. ft., most recent use—storage, off-site use only

Bldg. E5770
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820128
Status: Unutilized
Comments: 174 sq. ft., most recent use—cent wash, off-site use only

Bldg. E5840
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820129
Status: Unutilized
Comments: 14200 sq. ft., most recent use—lab, off-site use only

Bldg. E5946
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820130
Status: Unutilized
Comments: 2147 sq. ft., most recent use—igloo str, off-site use only

Bldg. E6872
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820131
Status: Unutilized
Comments: 1380 sq. ft., most recent use—dispatch, off-site use only

Bldgs. E7331, E7332, E7333
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820132
Status: Unutilized
Comments: Most recent use—protective barrier, off-site use only

Bldg. E7821
Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820133
Status: Unutilized
Comments: 3500 sq. ft., most recent use—xmitter bldg, off-site use only

Bldg. 02483
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200920025
Status: Unutilized
Comments: 1360 sq. ft., most recent use—heat plt bldg., off-site use only

Bldg. 03320
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200920026
Status: Unutilized
Comments: 10,600 sq. ft., most recent use—admin., off-site use only

Bldg. 06186
Ft. Detrick
Fredrick MD 21702
Landholding Agency: Army
Property Number: 21201110026
Status: Unutilized
Comments: Off-site removal only, 14,033 sq. ft., current use: communications ctr., bldg. not energy efficient but fair condition

Bldg. 01692
Ft. Detrick
Fredrick MD 21702
Landholding Agency: Army
Property Number: 21201110028
Status: Unutilized
Comments: Off-site removal only, 1,000 sq.ft., current use; communications ctr., bldg. is not energy efficient but in fair condition

Missouri

Bldg. T1497
Fort Leonard Wood
Ft. Leonard Wood MO 65473–5000
Landholding Agency: Army
Property Number: 21199420441
Status: Underutilized
Directions:
Comments: 4720 sq. ft., 2-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only

Bldg. T2139
Fort Leonard Wood
Ft. Leonard Wood MO 65473–5000
Landholding Agency: Army
Property Number: 21199420446
Status: Underutilized
Directions:
Comments: 3663 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only

Bldg. T2385
Fort Leonard Wood
Ft. Leonard Wood MO 65473
Landholding Agency: Army
Property Number: 21199510115
Status: Excess
Directions:
Comments: 3158 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only

Bldg. 2167
Fort Leonard Wood
Ft. Leonard Wood MO 65473–5000
Landholding Agency: Army
Property Number: 21199820179
Status: Unutilized
Directions:
Comments: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldgs. 2192, 2196, 2198
Fort Leonard Wood
Ft. Leonard Wood MO 65473–5000
Landholding Agency: Army
Property Number: 21199820183
Status: Unutilized
Directions:
Comments: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

12 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army
Property Number: 21200410110
Status: Unutilized
Directions: 07036, 07050, 07054, 07102, 07400, 07401, 08245, 08249, 08251, 08255, 08257, 08261.
Comments: 7152 sq. ft. 6 plex housing quarters, potential contaminants, off-site use only

6 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army
Property Number: 21200410111
Status: Unutilized
Directions: 07044, 07106, 07107, 08260, 08281, 08300
Comments: 9520 sq ft., 8 plex housing quarters, potential contaminants, off-site use only

15 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army
Property Number: 21200410112
Status: Unutilized
Directions: 08242, 08243, 08246–08248, 08250, 08252–08254, 08256, 08258–08259, 08262–08263, 08265
Comments: 4784 sq ft., 4 plex housing quarters, potential contaminants, off-site use only

Bldgs. 08283, 08285
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army
Property Number: 21200410113
Status: Unutilized
Comments: 2240 sq ft, 2 plex housing quarters, potential contaminants, off-site use only

15 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood MO 65743–0827
Landholding Agency: Army
Property Number: 21200410114
Status: Unutilized
Directions: 08267, 08269, 08271, 08273, 08275, 08277, 08279, 08290 08296, 08301
Comments: 4784 sq ft., 4 plex housing quarters, potential contaminants, off-site use only

Bldg. 09432
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army
Property Number: 21200410115
Status: Unutilized
Comments: 8724 sq ft., 6-plex housing quarters, potential contaminants, off-site use only

Bldgs. 5006 and 5013
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army
Property Number: 21200430064
Status: Unutilized
Comments: 192 sq. ft., needs repair, most recent use—generator bldg., off-site use only

Bldgs. 13210, 13710
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army

Property Number: 21200430065
Status: Unutilized
Comments: 144 sq. ft. each, needs repair, most recent use—communication, off-site use only

Kirksville Property
FAA
Kirksville MO
Landholding Agency: GSA
Property Number: 54201120016
Status: Surplus
GSA Number: 7–U–MO–0690
Comments: 6 x 10, recent use: antenna tower

Montana

Bldg. 00405
Fort Harrison
Ft. Harrison MT 59636
Landholding Agency: Army
Property Number: 21200130099
Status: Unutilized
GSA Number:
Comments: 3467 sq. ft., most recent use—storage, security limitations

Bldg. T0066
Fort Harrison
Ft. Harrison MT 59636
Landholding Agency: Army
Property Number: 21200130100
Status: Unutilized
GSA Number:
Comments: 528 sq. ft., needs rehab, presence of asbestos, security limitations

Bldg. 00001
Sheridan Hall USARC
Helena MT 59601
Landholding Agency: Army
Property Number: 21200540093
Status: Unutilized
Comments: 19,321 sq. ft., most recent use—Reserve Center

Bldg. 00003
Sheridan Hall USARC
Helena MT 59601
Landholding Agency: Army
Property Number: 21200540094
Status: Unutilized
Comments: 1950 sq. ft., most recent use—maintenance/storage

New Jersey

Bldg. 732
Armament R Engineering Center
Picatinny Arsenal NJ 07806–5000
Landholding Agency: Army
Property Number: 21199740315
Status: Unutilized
Comments: 9077 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 816C
Armament R, D, Center
Picatinny Arsenal NJ 07806–5000
Landholding Agency: Army
Property Number: 21200130103
Status: Unutilized
GSA Number:
Comments: 144 sq. ft., most recent use—storage, off-site use only

5 Bldgs.
Picatinny Arsenal
Dover NJ 07806
Landholding Agency: Army
Property Number: 21200940032
Status: Unutilized
Directions: 3710, 3711, 3712, 3713, 3714
Comments: residential trailers, needs rehab, off-site use only

Bldgs. 3704, 3706
Picatinny Arsenal
Dover NJ 07806
Landholding Agency: Army
Property Number: 21201010016
Status: Unutilized
Comments: 768 sq. ft. residential trailers, needs rehab, off-site use only

New Mexico

Bldg. 34198
White Sands Missile Range
Dona Ana NM 88002
Landholding Agency: Army
Property Number: 21200230062
Status: Excess
GSA Number:
Comments: 107 sq. ft., most recent use—security, off-site use only

New York

Bldg. 1227
U.S. Military Academy
Highlands NY 10996–1592
Landholding Agency: Army
Property Number: 21200440074
Status: Unutilized
Comments: 3800 sq. ft., needs repair, possible asbestos/lead paint, most recent use—maintenance, off-site use only

Bldg. 2218
Stewart Newburg USARC
New Windsor NY 12553–9000
Landholding Agency: Army
Property Number: 21200510067
Status: Unutilized
Comments: 32,000 sq. ft., poor condition, requires major repairs, most recent use—storage/services

7 Bldgs.
Stewart Newburg USARC
New Windsor NY 12553–9000
Landholding Agency: Army
Property Number: 21200510068
Status: Unutilized
Directions: 2122, 2124, 2126, 2128, 2106, 2108, 2104
Comments: sq. ft. varies, poor condition, needs major repairs, most recent use—storage/services

Bldg. 1230
U.S. Army Garrison
Orange NY 10996
Landholding Agency: Army
Property Number: 21200940014
Status: Unutilized
Comments: 4538 sq. ft., possible asbestos/lead paint, most recent use—clubhouse, off-site use only

Bldg. 4802
Fort Drum
Jefferson NY 13602
Landholding Agency: Army
Property Number: 21201010019
Status: Unutilized
Comments: 3300 sq. ft., most recent use—hdgts. facility, off-site use only

Bldg. 4813
Fort Drum
Jefferson NY 13602
Landholding Agency: Army
Property Number: 21201010020
Status: Unutilized
Comments: 750 sq. ft., most recent use—wash rack, off-site use only

Bldg. 4814
Fort Drum
Jefferson NY 13602
Landholding Agency: Army
Property Number: 21201010021
Status: Unutilized
Comments: 2592 sq. ft., most recent use—item repair, off-site use only

Bldgs. 1240, 1255
Fort Drum
Jefferson NY 13602
Landholding Agency: Army
Property Number: 21201010022
Status: Unutilized
Comments: Various sq. ft., most recent use—vehicle maint. facility, off-site use only

6 Bldgs.
Fort Drum
Jefferson NY 13602
Landholding Agency: Army
Property Number: 21201010023
Status: Unutilized
Directions: 1248, 1250, 1276, 2361, 4816, 4817
Comments: Various sq. ft., most recent use—storage, off-site use only

Bldg. 1050
Fort Drum
Jefferson NY 13602
Landholding Agency: Army
Property Number: 21201010024
Status: Unutilized
Comments: 1493 sq. ft., most recent use—training, off-site use only

Bldg. 10791
Fort Drum
Jefferson NY 13602
Landholding Agency: Army
Property Number: 21201010025
Status: Unutilized
Comments: 72 sq. ft., most recent use—smoking shelter, off-site use only

6 Bldgs.
Ft. Drum
Watertown NY 13602
Landholding Agency: Army
Property Number: 21201110049
Status: Underutilized
Directions: 01000, 01001, 01003, 01008, 01010, 01012
Comments: Off-site removal only, multiple bldgs. w/varies sq.ft., current use varies

Oklahoma

Bldg. T–838
Fort Sill
838 Macomb Road
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199220609
Status: Unutilized
Directions:
Comments: 151 sq. ft., wood frame, 1 story, off-site removal only, most recent use—vet facility (quarantine stable)

Bldg. T–954
Fort Sill
954 Quinette Road
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199240659
Status: Unutilized
Directions:

Comments: 3571 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—motor repair shop

Bldg. T–3325
Fort Sill
3325 Naylor Road
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199240681
Status: Unutilized
Comments: 8832 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—warehouse

Bldg. T–4226
Fort Sill
Lawton OK 73503
Landholding Agency: Army
Property Number: 21199440384
Status: Unutilized
Comments: 114 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—storage, off-site use only

Bldg. P–1015
Fort Sill
Null
Lawton OK 73501–5100
Landholding Agency: Army
Property Number: 21199520197
Status: Unutilized
Comments: 15402 sq. ft., 1-story, most recent use—storage, off-site use only

Bldg. P–366
Fort Sill
Lawton OK 73503
Landholding Agency: Army
Property Number: 21199610740
Status: Unutilized
Comments: 482 sq. ft., possible asbestos, most recent use—storage, off-site use only

Building P–5042
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199710066
Status: Unutilized
Comments: 119 sq. ft., possible asbestos and lead paint, most recent use—heat plant, off-site use only

4 Buildings
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199710086
Status: Unutilized
Directions: T–6465, T–6466, T–6467, T–6468
Comments: various sq. ft., possible asbestos and lead paint, most recent use—range support, off site use only

Bldg. T–810
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199730350
Status: Unutilized
Comments: 7205 sq. ft., possible asbestos/lead paint, most recent use—hay storage, off-site use only

Bldgs. T–837, T–839
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199730351
Status: Unutilized
Comments: approx. 100 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–934
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199730353
Status: Unutilized
Comments: 402 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–1468, T–1469
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199730357
Status: Unutilized
Comments: 114 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–1470
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199730358
Status: Unutilized
Comments: 3120 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–1954, T–2022
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199730362
Status: Unutilized
Comments: Approx. 100 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2184
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199730364
Status: Unutilized
Comments: 454 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2186, T–2188, T–2189
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199730366
Status: Unutilized
Comments: 1656–3583 sq. ft., possible asbestos/lead paint, most recent use—vehicle maint. shop, off-site use only

Bldg. T–2187
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199730367
Status: Unutilized
Comments: 1673 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2291 thru T–2296
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199730372
Status: Unutilized
Comments: 400 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–3001, T–3006
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199730383
Status: Unutilized
Comments: Approx. 9300 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–3314
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199730385
Status: Unutilized
Comments: 229 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. T–5041
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199730409
Status: Unutilized
Comments: 763 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–5420
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199730414
Status: Unutilized
Comments: 189 sq. ft., possible asbestos/lead paint, most recent use—fuel storage, off-site use only

Bldg. T–7775
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199730419
Status: Unutilized
Comments: 1452 sq. ft., possible asbestos/lead paint, most recent use—private club, off-site use only

4 Bldgs.
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199910133
Status: Unutilized
GSA Number:
Directions: P–617, P–1114, P–1386, P–1608
Comments: 106 sq. ft., possible asbestos/lead paint, most recent use—utility plant, off-site use only

Bldg. P–746
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199910135
Status: Unutilized
GSA Number:
Comments: 6299 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. P–2582
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199910141
Status: Unutilized
GSA Number:

Comments: 3672 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. P–2914
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199910146
Status: Unutilized
GSA Number:
Comments: 1236 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–5101
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199910153
Status: Unutilized
GSA Number:
Comments: 82 sq. ft., possible asbestos/lead paint, most recent use—gas station, off-site use only

Bldg. S–6430
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199910156
Status: Unutilized
GSA Number:
Comments: 2080 sq. ft., possible asbestos/lead paint, most recent use—range support, off-site use only

Bldg. T–6461
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199910157
Status: Unutilized
GSA Number:
Comments: 200 sq. ft., possible asbestos/lead paint, most recent use—range support, off-site use only

Bldg. T–6462
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199910158
Status: Unutilized
GSA Number:
Comments: 64 sq. ft., possible asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. P–7230
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21199910159
Status: Unutilized
GSA Number:
Comments: 160 sq. ft., possible asbestos/lead paint, most recent use—transmitter bldg., off-site use only

Bldg. S–4023
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21200010128
Status: Unutilized
GSA Number:
Comments: 1200 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–747
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21200120120
Status: Unutilized
GSA Number:
Comments: 9232 sq. ft., possible asbestos/lead paint, most recent use—lab, off-site use only

Bldg. P–842
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21200120123
Status: Unutilized
GSA Number:
Comments: 192 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–911
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21200120124
Status: Unutilized
GSA Number:
Comments: 3080 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. P–1672
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21200120126
Status: Unutilized
GSA Number:
Comments: 1056 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. S–2362
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21200120127
Status: Unutilized
GSA Number:
Comments: 64 sq. ft., possible asbestos/lead paint, most recent use—gatehouse, off-site use only

Bldg. P–2589
Fort Sill
Lawton OK 73503–5100
Landholding Agency: Army
Property Number: 21200120129
Status: Unutilized
GSA Number:
Comments: 3672 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. 00937, 00957
Fort Sill
Lawton OK 73501
Landholding Agency: Army
Property Number: 21200710104
Status: Unutilized
Comments: 1558 sq. ft., most recent use—storage shed, off-site use only

Bldg. 01514
Fort Sill
Lawton OK 73501
Landholding Agency: Army
Property Number: 21200710105
Status: Unutilized
Comments: 1602 sq. ft., most recent use—storage, off-site use only

Bldg. 05685
Fort Sill
Lawton OK 73501
Landholding Agency: Army
Property Number: 21200820152
Status: Unutilized
Comments: 24,072 sq. ft., concrete block/w brick, off-site use only

Bldg. 07480
Fort Sill
Lawton OK 73501
Landholding Agency: Army
Property Number: 21200920002
Status: Unutilized
Comments: 1200 sq. ft., most recent use—recreation, off-site use only

Bldgs. 01509, 01510
Fort Sill
Lawton OK 73501
Landholding Agency: Army
Property Number: 21200920060
Status: Unutilized
Comments: Various sq. ft., most recent use—vehicle maint. shop, off-site use only

4 Bldgs.
Fort Sill
2591, 2593, 2595, 2604
Lawton OK 73501
Landholding Agency: Army
Property Number: 21200920061
Status: Unutilized
Comments: Various sq. ft., most recent use—classroom/admin, off-site use only

Bldg. 06456
Fort Sill
Lawton OK 73501
Landholding Agency: Army
Property Number: 21200930003
Status: Unutilized
Comments: 413 sq. ft. range support facility, off-site use only

Fort Sill (5 Bldgs.)
2583–87 Currie Road
Lawton OK 73501–5100
Landholding Agency: Army
Property Number: 21201110022
Status: Unutilized
Directions:
Bldgs. 02583, 02584, 02585, 02586, 02587
Comments: Off-site removal only, sq. ft. varies; current use varies

Fort Sill (5 Bldgs.)
Currie Road
Lawton OK 73501–5100
Landholding Agency: Army
Property Number: 21201110023
Status: Unutilized
Directions: Bldgs. 02588, 02769, 02770, 02771, 02950
Comments: Off-site removal only, sq. ft. varies; current use varied

Bldgs. 02990 & 05020
Fort Sill
Lawton OK 73501–5100
Landholding Agency: Army
Property Number: 21201110024
Status: Unutilized
Comments: Off-site removal only, bldg. 02990—3,715 sq. ft. and bldg. 05020—6,682 sq. ft.; current use fast food facility and storage

South Dakota

Bldg. 03001
Jonas H. Lien AFRC

Sioux Falls SD 57104
Landholding Agency: Army
Property Number: 21200740187
Status: Unutilized
Comments: 33282 sq. ft., most recent use—training center

Bldg. 03003
Jonas H. Lien AFRC
Sioux Falls SD 57104
Landholding Agency: Army
Property Number: 21200740188
Status: Unutilized
Comments: 4675 sq. ft., most recent use—vehicle maint. shop

Texas

Bldg. 7137, Fort Bliss
Null
El Paso TX 79916
Landholding Agency: Army
Property Number: 21199640564
Status: Unutilized
Directions:
Comments: 35,736 sq. ft., 3-story, most recent use—housing, off-site use only

Bldg. 92043
Fort Hood
Ft. Hood TX 76544
Landholding Agency: Army
Property Number: 21200020206
Status: Unutilized
GSA Number:
Comments: 450 sq. ft., most recent use—storage, off-site use only

Bldg. 92044
Fort Hood
Ft. Hood TX 76544
Landholding Agency: Army
Property Number: 21200020207
Status: Unutilized
GSA Number:
Comments: 1920 sq. ft., most recent use—admin., off-site use only

Bldg. 92045
Fort Hood
Ft. Hood TX 76544
Landholding Agency: Army
Property Number: 21200020208
Status: Unutilized
GSA Number:
Comments: 2108 sq. ft., most recent use—maint., off-site use only

Bldg. 56638
Fort Hood
Ft. Hood TX 76544
Landholding Agency: Army
Property Number: 21200220151
Status: Unutilized
GSA Number:
Comments: 1133 sq. ft., most recent use—shower, off-site use only

Bldgs. 56703, 56708
Fort Hood
Ft. Hood TX 76544
Landholding Agency: Army
Property Number: 21200220152
Status: Unutilized
GSA Number:
Comments: 1306 sq. ft., most recent use—shower, off-site use only

Bldg. 56758
Fort Hood
Ft. Hood TX 76544
Landholding Agency: Army
Property Number: 21200220154
Status: Unutilized
GSA Number:
Comments: 1133 sq. ft., most recent use—shower, off-site use only

Bldgs. P6220, P6222
Fort Sam Houston
Camp Bullis
San Antonio TX
Landholding Agency: Army
Property Number: 21200330197
Status: Unutilized
GSA Number:
Comments: 384 sq. ft., most recent use—carport/storage, off-site use only

Bldgs. P6224, P6226
Fort Sam Houston
Camp Bullis
San Antonio TX
Landholding Agency: Army
Property Number: 21200330198
Status: Unutilized
GSA Number:
Comments: 384 sq. ft., most recent use—carport/storage, off-site use only

Bldg. 92039
Fort Hood
Ft. Hood TX 76544
Landholding Agency: Army
Property Number: 21200640101
Status: Excess
Comments: 80 sq. ft., most recent use—storage, off-site use only

Bldgs. 04281, 04283
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720085
Status: Excess
Comments: 4000/8020 sq. ft., most recent use—storage shed, off-site use only

Bldg. 04284
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720086
Status: Excess
Comments: 800 sq. ft., presence of asbestos, most recent use—storage shed, off-site use only

Bldg. 04285
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720087
Status: Excess
Comments: 8000 sq. ft., most recent use—storage shed, off-site use only

Bldg. 04286
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720088
Status: Excess
Comments: 36,000 sq. ft., presence of asbestos, most recent use—storage shed, off-site use only

Bldg. 04291
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720089
Status: Excess
Comments: 6400 sq. ft., presence of asbestos, most recent use—storage shed, off-site use only

Bldg. 4410
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720090
Status: Excess
Comments: 12,956 sq. ft., presence of asbestos, most recent use—simulation center, off-site use only

Bldgs. 10031, 10032, 10033
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720091
Status: Excess
Comments: 2578/3383 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 56435
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720093
Status: Excess
Comments: 3441 sq. ft., presence of asbestos, most recent use—barracks, off-site use only

Bldg. 05708
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720094
Status: Excess
Comments: 1344 sq. ft., most recent use—community center, off-site use only

Bldg. 93013
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200720099
Status: Excess
Comments: 800 sq. ft., most recent use—club, off-site use only

4 Bldgs.
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810048
Status: Unutilized
Directions: 00229, 00230, 00231, 00232
Comments: various sq. ft., presence of asbestos, most recent use—training aids center, off-site use only

Bldg. 00324
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810049
Status: Unutilized
Comments: 13,319 sq. ft., most recent use—roller skating rink, off-site use only

Bldgs. 00710, 00739, 00741
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810050
Status: Unutilized
Comments: Various sq. ft., presence of asbestos, most recent use—repair shop, off-site use only

Bldg. 00713
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810052

Status: Unutilized
Comments: 3200 sq. ft., presence of asbestos, most recent use—hdqts. bldg., off-site use only

Bldgs. 1938, 04229
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810053
Status: Unutilized
Comments: 2736/9000 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldgs. 02218, 02220
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810054
Status: Unutilized
Comments: 7289/1456 sq. ft., presence of asbestos, most recent use—museum, off-site use only

Bldg. 0350
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810055
Status: Unutilized
Comments: 28,290 sq. ft., presence of asbestos, most recent use—veh. maint. shop, off-site use only

Bldg. 04449
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810056
Status: Unutilized
Comments: 3822 sq. ft., most recent use—police station, off-site use only

Bldg. 91077
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200810057
Status: Unutilized
Comments: 3200 sq. ft., presence of asbestos, most recent use—educational facility, off-site use only

Bldg. 1610
Fort Bliss
El Paso TX 79916
Landholding Agency: Army
Property Number: 21200810059
Status: Excess
Comments: 11056 sq. ft., concrete/stucco, most recent use—gas station/store, off-site use only

Bldg. 1680
Fort Bliss
El Paso TX 79916
Landholding Agency: Army
Property Number: 21200810060
Status: Excess
Comments: 3690 sq. ft., concrete/stucco, most recent use—restaurant, off-site use only

Bldg. 57005
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200840073
Status: Excess
Comments: 500 sq. ft., presence of asbestos, most recent use—water supply/treatment, off-site use only

Utah

Bldg. 00001
Borgstrom Hall USARC
Ogden UT 84401
Landholding Agency: Army
Property Number: 21200740196
Status: Excess
Comments: 16543 sq. ft., most recent use—training center, off-site use only

Bldg. 00002
Borgstrom Hall USARC
Ogden UT 84401
Landholding Agency: Army
Property Number: 21200740197
Status: Excess
Comments: 3842 sq. ft., most recent use—vehicle maint. shop, off-site use only

Bldg. 00005
Borgstrom Hall USARC
Ogden UT 84401
Landholding Agency: Army
Property Number: 21200740198
Status: Excess
Comments: 96 sq. ft., most recent use—storage, off-site use only

Virginia

Fort Story
Ft. Story VA 23459
Landholding Agency: Army
Property Number: 21200720065
Status: Unutilized
Comments: 525 sq. ft., most recent use—power plant, off-site use only

Bldg. 01633
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720076
Status: Unutilized
Comments: 240 sq. ft., most recent use—storage, off-site use only

Bldg. 02786
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720084
Status: Unutilized
Comments: 1596 sq. ft., most recent use—admin., off-site use only

Bldg. P0838
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200830005
Status: Unutilized
Comments: 576 sq. ft., most recent use—rec shelter, off-site use only

Washington

Bldg. CO909, Fort Lewis
Null
Ft. Lewis WA 98433–9500
Landholding Agency: Army
Property Number: 21199630205
Status: Unutilized
Directions:
Comments: 1984 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1164, Fort Lewis
Null
Ft. Lewis WA 98433–9500
Landholding Agency: Army
Property Number: 21199630213
Status: Unutilized
Directions:
Comments: 230 sq. ft., possible asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 1307, Fort Lewis
Ft. Lewis WA 98433–9500
Landholding Agency: Army
Property Number: 21199630216
Status: Unutilized
Directions:
Comments: 1092 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1309, Fort Lewis
Ft. Lewis WA 98433–9500
Landholding Agency: Army
Property Number: 21199630217
Status: Unutilized
Comments: 1092 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2167, Fort Lewis
Null
Ft. Lewis WA 98433–9500
Landholding Agency: Army
Property Number: 21199630218
Status: Unutilized
Directions:
Comments: 288 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 4078, Fort Lewis
Ft. Lewis WA 98433–9500
Landholding Agency: Army
Property Number: 21199630219
Status: Unutilized
Comments: 10200 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 9599, Fort Lewis
Ft. Lewis WA 98433–9500
Landholding Agency: Army
Property Number: 21199630220
Status: Unutilized
Comments: 12366 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. A1404, Fort Lewis null
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199640570
Status: Unutilized
Directions:
Comments: 557 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. EO347
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199710156
Status: Unutilized
Comments: 1800 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. B1008, Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199720216
Status: Unutilized
Comments: 7387 sq. ft., 2-story, needs rehab, possible asbestos/lead paint, most recent use—medical clinic, off-site use only

Bldgs. CO509, CO709, CO720

Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199810372
Status: Unutilized
Comments: 1984 sq. ft., possible asbestos/lead paint, needs rehab, most recent use—storage, off-site use only

Bldg. 5162
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199830419
Status: Unutilized
Comments: 2360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 5224 Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199830433
Status: Unutilized
Comments: 2360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—educ. fac., off-site use only

Bldg. U001B
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920237
Status: Excess
GSA Number:
Comments: 54 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U001C
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920238
Status: Unutilized
GSA Number:
Comments: 960 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—supply, off-site use only

10 Bldgs.
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920239
Status: Excess
GSA Number:
Directions: U002B, U002C, U005C, U015I, U016E, U019C, U022A, U028B, 0091A, U093C
Comments: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

6 Bldgs.
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920240
Status: Unutilized
GSA Number:
Directions: U003A, U004B, U006C, U015B, U016B, U019B
Comments: 54 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U004D
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920241
Status: Unutilized
GSA Number:
Comments: 960 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—supply, off-site use only

Bldg. U005A
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920242
Status: Unutilized
GSA Number:
Comments: 360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

7 Bldgs.
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920245
Status: Excess
GSA Number:
Directions: U014A, U022B, U023A, U043B, U059B, U060A, U101A
Comments: needs repair, presence of asbestos/lead paint, most recent use—ofc/tower/support, off-site use only

Bldg. U015J
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920246
Status: Excess
GSA Number:
Comments: 144 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U018B
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920247
Status: Unutilized
GSA Number:
Comments: 121 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U018C
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920248
Status: Unutilized
GSA Number:
Comments: 48 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U024D
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920250
Status: Unutilized
GSA Number:
Comments: 120 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—ammo bldg., off-site use only

Bldg. U027A
Fort Lewis
Ft. Lewis WA
Landholding Agency: Army
Property Number: 21199920251
Status: Excess
GSA Number:
Comments: 64 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tire house, off-site use only

Bldg. U031A
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920253
Status: Excess
GSA Number:
Comments: 3456 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—line shed, off-site use only

Bldg. U031C
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920254
Status: Unutilized
GSA Number:
Comments: 32 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U040D
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920255
Status: Excess
GSA Number:
Comments: 800 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldgs. U052C, U052H
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920256
Status: Excess
GSA Number:
Comments: various sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldgs. U035A, U035B
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920257
Status: Excess
GSA Number:
Comments: 192 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. U035C
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920258
Status: Excess
GSA Number:
Comments: 242 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U039A
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920259
Status: Excess
GSA Number:
Comments: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U039B
Fort Lewis

Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920260
Status: Excess
GSA Number:
Comments: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—grandstand/bleachers, off-site use only

Bldg. U039C
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920261
Status: Excess
GSA Number:
Comments: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

Bldg. U043A
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920262
Status: Excess
GSA Number:
Comments: 132 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U052A
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920263
Status: Excess
GSA Number:
Comments: 69 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U052E
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920264
Status: Excess
GSA Number:
Comments: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. U052G
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920265
Status: Excess
GSA Number:
Comments: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

3 Bldgs.
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920266
Status: Excess
GSA Number:
Directions:
U058A, U103A, U018A
Comments: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U059A
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920267
Status: Excess
GSA Number:
Comments: 16 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U093B
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920268
Status: Excess
GSA Number:
Comments: 680 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

4 Bldgs.
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920269
Status: Excess
GSA Number:
Directions: U101B, U101C, U507B, U557A
Comments: 400 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U110B
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920272
Status: Excess
GSA Number:
Comments: 138 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

6 Bldgs.
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920273
Status: Excess
GSA Number:
Directions: U111A, U015A, U024E, U052F, U109A, U110A
Comments: 1000 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support/shelter/mess, off-site use only

Bldg. U112A
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920274
Status: Excess
GSA Number:
Comments: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use- shelter, off-site use only

Bldg. U115A
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920275
Status: Excess
GSA Number:
Comments: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U507A
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920276
Status: Excess
GSA Number:
Comments: 400 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

Bldg. C0120
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920281
Status: Excess
GSA Number:
Comments: 384 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—scale house, off-site use only

Bldg. 01205
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920290
Status: Excess
GSA Number:
Comments: 87 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 01259
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920291
Status: Excess
GSA Number:
Comments: 16 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 01266
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920292
Status: Excess
GSA Number:
Comments: 45 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. 1445
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920294
Status: Excess
GSA Number:
Comments: 144 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—generator bldg., off-site use only

Bldgs. 03091, 03099
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920296
Status: Excess
GSA Number:
Comments: various sq. ft., needs repair, presence of asbestos/lead paint, most recent use—sentry station, off-site use only

Bldg. 4040
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920298
Status: Excess
GSA Number:
Comments: 8326 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shed, off-site use only

Bldgs. 4072, 5104

Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920299
Status: Excess
GSA Number:
Comments: 24/36 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 4295
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920300
Status: Excess
GSA Number:
Comments: 48 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 6191
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920303
Status: Excess
GSA Number:
Comments: 3663 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—exchange branch, off-site use only

Bldgs. 08076, 08080
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920304
Status: Excess
GSA Number:
Comments: 3660/412 sq .ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 08093
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920305
Status: Excess
GSA Number:
Comments: 289 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—boat storage, off-site use only

Bldg. 8279
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920306
Status: Excess
GSA Number:
Comments: 210 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—fuel disp. fac., off-site use only

Bldgs. 8280, 8291
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920307
Status: Excess
GSA Number:
Comments: 800/464 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 8956
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920308
Status: Excess
GSA Number:
Comments: 100 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 9530
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920309
Status: Excess
GSA Number:
Comments: 64 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—sentry station, off-site use only

Bldg. 9574
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920310
Status: Excess
GSA Number:
Comments: 6005 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—veh. shop., off-site use only

Bldg. 9596
Fort Lewis
Ft. Lewis WA 98433
Landholding Agency: Army
Property Number: 21199920311
Status: Excess
GSA Number:
Comments: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—gas station, off-site use only

Suitable/Available Properties

Land

Maryland

2 acres
Fort Meade
Odenton Rd/Rt. 175
Ft. Meade MD 20755
Landholding Agency: Army
Property Number: 21200640095
Status: Unutilized
Comments: Light industrial

16 acres
Fort Meade
Rt. 198/Airport Road
Ft. Meade MD 20755
Landholding Agency: Army
Property Number: 21200640096
Status: Unutilized
Comments: Light industrial

Ohio

Land
Defense Supply Center
Columbus OH 43216–5000
Landholding Agency: Army
Property Number: 21200340094
Status: Excess
GSA Number:
Comments: 11 acres, railroad access

Tennessee

Parcel No. 1
Fort Campbell
Tract No. 13M–3
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200920003
Status: Excess
Comments: 6.89 acres/thick vegetation

Parcel No. 2
Fort Campbell
Tract Nos. 12M–16B & 13M–3
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200920004
Status: Excess
Comments: 3.41 acres/wooded

Parcel No. 3
Fort Campbell
Tract No. 12M–4
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200920005
Status: Excess
Comments: 6.56 acre/wooded

Parcel No. 4
Fort Campbell
Tract Nos. 10M–22 & 10M–23
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200920006
Status: Excess
Comments: 5.73 acres/wooded

Parcel No. 5
Fort Campbell
Tract No. 10M–20
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200920007
Status: Excess
Comments: 3.86 acres/wooded

Parcel No. 7
Fort Campbell
Tract No. 10M–10
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200920008
Status: Excess
Comments: 9.47 acres/wooded

Parcel No. 8
Fort Campbell
Tract No. 8M–7
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200920009
Status: Excess
Comments: 15.13 acres/wooded

Parcel No. 6
Fort Campbell
Hwy 79
Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200940013
Status: Excess
Comments: 4.55 acres, wooded w/dirt road/fire break

Texas

1 acre
Fort Sam Houston
San Antonio TX 78234
Landholding Agency: Army
Property Number: 21200440075
Status: Excess
Comments: 1 acre, grassy area

FAA
Directional Finder
Lampasas TX
Landholding Agency: GSA
Property Number: 54201120015
Status: Excess
GSA Number: 7–U–TX–1131
Comments: 1.51 acres

Suitable/Unavailable Properties

Building

Alabama

Bldg. 01433
Fort Rucker
Ft. Rucker AL 36362
Landholding Agency: Army
Property Number: 21200220098
Status: Excess
GSA Number:
Comments: 800 sq. ft., most recent use—office, off-site use only

Bldg. 30105
Fort Rucker
Ft. Rucker AL 36362
Landholding Agency: Army
Property Number: 21200510052
Status: Excess
Comments: 4100 sq. ft., most recent use—admin., off-site use only

Bldg. 40115
Fort Rucker
Ft. Rucker AL 36362
Landholding Agency: Army
Property Number: 21200510053
Status: Excess
Comments: 34,520 sq. ft., most recent use—storage, off-site use only

Bldg. 25303
Fort Rucker
Dale AL 36362
Landholding Agency: Army
Property Number: 21200520074
Status: Excess
Comments: 800 sq. ft., most recent use—airfield operations, off-site use only

Bldg. 25304
Fort Rucker
Dale AL 36362
Landholding Agency: Army
Property Number: 21200520075
Status: Excess
Comments: 1200 sq. ft., poor condition, most recent use—fire station, off-site use only

Arizona

Bldg. 22529
Fort Huachuca
Cochise AZ 85613–7010
Landholding Agency: Army
Property Number: 21200520077
Status: Excess
Comments: 2543 sq. ft., most recent use—storage, off-site use only

Bldg. 22541
Fort Huachuca
Cochise AZ 85613–7010
Landholding Agency: Army
Property Number: 21200520078
Status: Excess
Comments: 1300 sq. ft., most recent use—storage, off-site use only

Bldg. 30020
Fort Huachuca
Cochise AZ 85613–7010
Landholding Agency: Army
Property Number: 21200520079
Status: Excess
Comments: 1305 sq. ft., most recent use—storage, off-site use only

Bldg. 30021
Fort Huachuca
Cochise AZ 85613–7010
Landholding Agency: Army
Property Number: 21200520080
Status: Excess
Comments: 144 sq. ft., most recent use—storage, off-site use only

Bldg. 22040
Fort Huachuca
Cochise AZ 85613
Landholding Agency: Army
Property Number: 21200540076
Status: Excess
Comments: 1131 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 22540
Fort Huachuca
Cochise AZ 85613–7010
Landholding Agency: Army
Property Number: 21200620067
Status: Excess
Comments: 958 sq. ft., most recent use—storage, off-site use only

Colorado

Bldg. S6264
Fort Carson
Ft. Carson CO 80913
Landholding Agency: Army
Property Number: 21200340084
Status: Unutilized
GSA Number:
Comments: 19,499 sq. ft., most recent use—office, off-site use only

Bldg. S6285
Fort Carson
Ft. Carson CO 80913
Landholding Agency: Army
Property Number: 21200420176
Status: Unutilized
Comments: 19,478 sq. ft., most recent use—admin., off-site use only

Bldg. S6287
Fort Carson
Ft. Carson CO 80913
Landholding Agency: Army
Property Number: 21200420177
Status: Unutilized
Comments: 10,076 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 06225
Fort Carson
El Paso CO 80913–4001
Landholding Agency: Army
Property Number: 21200520084
Status: Unutilized
Comments: 24,263 sq. ft., most recent use—admin., off-site use only

Georgia

Bldg. T201
Hunter Army Airfield
Garrison GA 31409
Landholding Agency: Army
Property Number: 21200420002
Status: Excess
Comments: 1828 sq. ft., most recent use—credit union, off-site use only

Bldg. T234
Hunter Army Airfield
Garrison GA 31409
Landholding Agency: Army
Property Number: 21200420008
Status: Excess
Comments: 2624 sq. ft., most recent use—admin., off-site use only

Bldg. T702
Hunter Army Airfield
Garrison GA 31409
Landholding Agency: Army
Property Number: 21200420010
Status: Excess
Comments: 9190 sq. ft., most recent use—storage, off-site use only

Bldg. T703
Hunter Army Airfield
Garrison GA 31409
Landholding Agency: Army
Property Number: 21200420011
Status: Excess
Comments: 9190 sq. ft., most recent use—storage, off-site use only

Bldg. T704
Hunter Army Airfield
Garrison GA 31409
Landholding Agency: Army
Property Number: 21200420012
Status: Excess
Comments: 9190 sq. ft., most recent use—storage, off-site use only

Bldg. P813
Hunter Army Airfield
Garrison GA 31409
Landholding Agency: Army
Property Number: 21200420013
Status: Excess
Comments: 43,055 sq. ft., most recent use—maint. hanger/Co Hq., off-site use only

Bldgs. S843, S844, S845
Hunter Army Airfield
Garrison GA 31409
Landholding Agency: Army
Property Number: 21200420014
Status: Excess
Comments: 9383 sq. ft., most recent use—maint hanger, off-site use only

Bldg. P925
Hunter Army Airfield
Garrison GA 31409
Landholding Agency: Army
Property Number: 21200420015
Status: Excess
Comments: 27,681 sq. ft., most recent use—fitness center, off-site use only

Bldg. P1277
Hunter Army Airfield
Garrison GA 31409
Landholding Agency: Army
Property Number: 21200420024
Status: Excess
Comments: 13,981 sq. ft., most recent use—barracks/dining, off-site use only

Bldg. T1412
Hunter Army Airfield
Garrison GA 31409
Landholding Agency: Army
Property Number: 21200420025
Status: Excess
Comments: 9186 sq. ft., most recent use—warehouse, off-site use only

Bldg. 8658
Hunter Army Airfield
Garrison GA 31409
Landholding Agency: Army
Property Number: 21200420029
Status: Excess
Comments: 8470 sq. ft., most recent use—storage, off-site use only

Bldg. 8659
Hunter Army Airfield
Garrison GA 31409

Landholding Agency: Army
Property Number: 21200420030
Status: Excess
Comments: 8470 sq. ft., most recent use—storage, off-site use only

Bldgs. 8675, 8676
Hunter Army Airfield
Garrison GA 31409
Landholding Agency: Army
Property Number: 21200420031
Status: Excess
Comments: 4000 sq. ft., most recent use—ship/recv facility, off-site use only

Bldg. 5978
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200420038
Status: Excess
Comments: 1344 sq. ft., most recent use—igloo storage, off-site use only

Bldg. 5993
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200420041
Status: Excess
Comments: 960 sq. ft., most recent use—storage, off-site use only

Bldg. 5994
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200420042
Status: Excess
Comments: 2016 sq. ft., most recent use—ammo storage, off-site use only

Bldg. 5995
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200420043
Status: Excess
Comments: 114 sq. ft., most recent use—storage, off-site use only

Bldg. T01
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420181
Status: Excess
Comments: 11,682 sq. ft., most recent use—admin., off-site use only

Bldg. T04
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420182
Status: Excess
Comments: 8292 sq. ft., most recent use—admin., off-site use only

Bldg. T05
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420183
Status: Excess
Comments: 7992 sq. ft., most recent use—admin., off-site use only

Bldg. T06
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420184
Status: Excess
Comments: 3305 sq. ft., most recent use—communication center, off-site use only

Bldg. T55
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420187
Status: Excess
Comments: 6490 sq. ft., most recent use—admin., off-site use only

Bldg. T85
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420188
Status: Excess
Comments: 3283 sq. ft., most recent use—post chapel, off-site use only

Bldg. T131
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420189
Status: Excess
Comments: 4720 sq. ft., most recent use—admin., off-site use only

Bldg. T132
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420190
Status: Excess
Comments: 4720 sq. ft., most recent use—admin., off-site use only

Bldg. T157
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420191
Status: Excess
Comments: 1440 sq. ft., most recent use—education center, off-site use only

Bldg. 01002
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420197
Status: Excess
Comments: 9267 sq. ft., most recent use—maintenance shop, off-site use only

Bldg. 01003
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420198
Status: Excess
Comments: 9267 sq. ft., most recent use—admin, off-site use only

Bldg. 19101
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420215
Status: Excess
Comments: 6773 sq. ft., most recent use—simulator bldg., off-site use only

Bldg. 19102
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420216
Status: Excess
Comments: 3250 sq. ft., most recent use—simulator bldg., off-site use only

Bldg. T19111
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420217
Status: Excess
Comments: 1440 sq. ft., most recent use—admin., off-site use only

Bldg. 19112
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420218
Status: Excess
Comments: 1344 sq. ft., most recent use—storage, off-site use only

Bldg. 19113
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420219
Status: Excess
Comments: 1440 sq. ft., most recent use—admin., off-site use only

Bldg. T19201
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420220
Status: Excess
Comments: 960 sq. ft., most recent use—physical fitness center, off-site use only

Bldg. 19202
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420221
Status: Excess
Comments: 1210 sq. ft., most recent use—community center, off-site use only

Bldg. 19204 thru 19207
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420222
Status: Excess
Comments: 960 sq. ft., most recent use—admin., off-site use only

Bldgs. 19208 thru 19211
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420223
Status: Excess
Comments: 1540 sq. ft., most recent use—general installation bldg., off-site use only

Bldg. 19212
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420224
Status: Excess
Comments: 1248 sq. ft., off-site use only

Bldg. 19213
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420225
Status: Excess
Comments: 1540 sq. ft., most recent use—general installation bldg., off-site use only

Bldg. 19214
Fort Stewart
Ft. Stewart GA 31314

Landholding Agency: Army
Property Number: 21200420226
Status: Excess
Comments: 1796 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19215
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420227
Status: Excess
Comments: 1948 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19216
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420228
Status: Excess
Comments: 1540 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19217
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420229
Status: Excess
Comments: 120 sq. ft., most recent use—nav aids bldg., off-site use only

Bldg. 19218
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420230
Status: Excess
Comments: 2925 sq. ft., most recent use—general installation bldg., off-site use only

Bldgs. 19219, 19220
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420231
Status: Excess
Comments: 1200 sq. ft., most recent use—general installation bldg., off-site use only

Bldg. 19223
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420232
Status: Excess
Comments: 6433 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19225
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420233
Status: Excess
Comments: 4936 sq. ft., most recent use—dining facility, off-site use only

Bldg. 19226
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420234
Status: Excess
Comments: 136 sq. ft., most recent use—general purpose installation bldg., off-site use only

Bldg. T19228
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420235
Status: Excess
Comments: 400 sq. ft., most recent use—admin., off-site use only

Bldg. 19229
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420236
Status: Excess
Comments: 640 sq. ft., most recent use—vehicle shed, off-site use only

Bldg. 19232
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420237
Status: Excess
Comments: 96 sq. ft., most recent use—general purpose installation, off-site use only

Bldg. 19233
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420238
Status: Excess
Comments: 48 sq. ft., most recent use—fire support, off-site use only

Bldg. 19236
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420239
Status: Excess
Comments: 1617 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19238
Fort Stewart
Ft. Stewart GA 31314
Landholding Agency: Army
Property Number: 21200420240
Status: Excess
Comments: 738 sq. ft., off-site use only

Bldg. 01674
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200510056
Status: Unutilized
Comments: 5311 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 01675
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200510057
Status: Unutilized
Comments: 5475 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 01676
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200510058
Status: Unutilized
Comments: 7209 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 01677
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200510059
Status: Unutilized
Comments: 5311 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 01678
Fort Benning
Ft. Benning GA 31905
Landholding Agency: Army
Property Number: 21200510060
Status: Unutilized
Comments: 6488 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 00051
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200520087
Status: Excess
Comments: 3196 sq. ft., most recent use—court room, off-site use only

Bldg. 00052
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200520088
Status: Excess
Comments: 1250 sq. ft., most recent use—admin., off-site use only

Bldg. 00053
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200520089
Status: Excess
Comments: 2844 sq. ft., most recent use—admin., off-site use only

Bldg. 00054
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200520090
Status: Excess
Comments: 4425 sq. ft., most recent use—admin., off-site use only

Bldg. 01243
Hunter Army Airfield
Savannah GA 31409
Landholding Agency: Army
Property Number: 21200610040
Status: Excess
Comments: 1258 sq. ft., most recent use—ref/ac facility, off-site use only

Bldg. 01244
Hunter Army Airfield
Savannah GA 31409
Landholding Agency: Army
Property Number: 21200610041
Status: Excess
Comments: 4096 sq. ft., presence of asbestos, most recent use—hdqts. facility, off-site use only

Bldg. 01318
Hunter Army Airfield
Savannah GA 31409
Landholding Agency: Army
Property Number: 21200610042
Status: Excess
Comments: 1500 sq. ft., most recent use—storage, off-site use only

Bldg. 00612
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610043
Status: Excess
Comments: 5298 sq. ft., needs rehab, most recent use—health clinic, off-site use only

Bldg. 00614
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610044
Status: Excess
Comments: 10,157 sq. ft., needs rehab, most recent use—brigade hqtrs, off-site use only

Bldg. 00618
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610045
Status: Excess
Comments: 6137 sq. ft., needs rehab, most recent use—brigade hqtrs, off-site use only

Bldg. 00628
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610046
Status: Excess
Comments: 10,050 sq. ft., needs rehab, most recent use—brigade hqtrs, off-site use only

Bldg. 01079
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610047
Status: Excess
Comments: 7680 sq. ft., most recent use—range/target house, off-site use only

Bldg. 07901
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610049
Status: Excess
Comments: 4800 sq. ft., most recent use—range support, off-site use only

Bldg. 08031
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610050
Status: Excess
Comments: 1296 sq. ft., most recent use—range/target house, off-site use only

Bldg. 08081
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610052
Status: Excess
Comments: 1296 sq. ft., most recent use—range/target house, off-site use only

Bldg. 08252
Fort Stewart
Liberty GA 31314
Landholding Agency: Army
Property Number: 21200610053
Status: Excess
Comments: 145 sq. ft., most recent use—control tower, off-site use only

Louisiana

Bldg. T401
Fort Polk
Ft. Polk LA 71459
Landholding Agency: Army
Property Number: 21200540084
Status: Unutilized
Comments: 2169 sq. ft., most recent use—admin., off-site use only

Bldgs. T406, T407, T411
Fort Polk
Ft. Polk LA 71459
Landholding Agency: Army
Property Number: 21200540085
Status: Unutilized
Comments: 6165 sq. ft., most recent use—admin., off-site use only

Bldg. T412
Fort Polk
Ft. Polk LA 71459
Landholding Agency: Army
Property Number: 21200540086
Status: Unutilized
Comments: 12,251 sq. ft., most recent use—admin., off-site use only

Bldgs. T414, T421
Fort Polk
Ft. Polk LA 71459
Landholding Agency: Army
Property Number: 21200540087
Status: Unutilized
Comments: 6165/1688 sq. ft., most recent use—admin., off-site use only

Maryland

Bldg. 8608
Fort George G. Meade
Ft. Meade MD 20755–5115
Landholding Agency: Army
Property Number: 21200410099
Status: Unutilized
Comments: 2372 sq. ft., concrete block, most recent use—PX exchange, off-site use only

Bldg. 8612
Fort George G. Meade
Ft. Meade MD 20755–5115
Landholding Agency: Army
Property Number: 21200410101
Status: Unutilized
Comments: 2372 sq. ft., concrete block, most recent use—family life ctr., off-site use only

Bldg. 0001A
Federal Support Center
Olney MD 20882
Landholding Agency: Army
Property Number: 21200520114
Status: Unutilized
Comments: 9000 sq. ft., most recent use—storage

Bldg. 0001C
Federal Support Center
Olney MD 20882
Landholding Agency: Army
Property Number: 21200520115
Status: Unutilized
Comments: 2904 sq. ft., most recent use—mess hall

Bldgs. 00032, 00H14, 00H24
Federal Support Center
Olney MD 20882
Landholding Agency: Army
Property Number: 21200520116
Status: Unutilized
Comments: Various sq. ft., most recent use—storage

Bldgs. 00034, 00H016
Federal Support Center
Olney MD 20882
Landholding Agency: Army
Property Number: 21200520117
Status: Unutilized
Comments: 400/39 sq. ft., most recent use—storage

Bldgs. 00H10, 00H12
Federal Support Center
Olney MD 20882
Landholding Agency: Army
Property Number: 21200520118
Status: Unutilized
Comments: 2160/469 sq. ft., most recent use—vehicle maintenance

Michigan

Bldg. 00001
Sheridan Hall USARC
501 Euclid Avenue
Helena MI 59601–2865
Landholding Agency: Army
Property Number: 21200510066
Status: Unutilized
Comments: 19,321 sq. ft., most recent use—reserve center

Missouri

Bldg. 1230
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army
Property Number: 21200340087
Status: Unutilized
GSA Number:
Comments: 9160 sq. ft., most recent use—training, off-site use only

Bldg. 1621
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army
Property Number: 21200340088
Status: Unutilized
GSA Number:
Comments: 2400 sq. ft., most recent use—exchange branch, off-site use only

Bldg. 5760
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army
Property Number: 21200410102
Status: Unutilized
Comments: 2000 sq. ft., most recent use—classroom, off-site use only

Bldg. 5762
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army
Property Number: 21200410103
Status: Unutilized
Comments: 104 sq. ft., off-site use only

Bldg. 5763
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army
Property Number: 21200410104
Status: Unutilized
Comments: 120 sq. ft., most recent use—observation tower, off-site use only

Bldg. 5765
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army
Property Number: 21200410105
Status: Unutilized
Comments: 800 sq. ft., most recent use—range support, off-site use only

Bldg. 5760
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army
Property Number: 21200420059
Status: Unutilized

Comments: 2000 sq. ft., most recent use—classroom, off-site use only

Bldg. 5762
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army
Property Number: 21200420060
Status: Unutilized
Comments: 104 sq. ft., off-site use only

Bldg. 5763
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army
Property Number: 21200420061
Status: Unutilized
Comments: 120 sq. ft., most recent use—obs. tower, off-site use only

Bldg. 5765
Fort Leonard Wood
Ft. Leonard Wood MO 65743–8944
Landholding Agency: Army
Property Number: 21200420062
Status: Unutilized
Comments: 800 sq. ft., most recent use—support bldg., off-site use only

Bldg. 00467
Fort Leonard Wood
Ft. Leonard Wood MO 65743
Landholding Agency: Army
Property Number: 21200530085
Status: Unutilized
Comments: 2790 sq. ft., most recent use—fast food facility, off-site use only

New York

Bldgs. 1511–1518
U.S. Military Academy
Training Area
Highlands NY 10996
Landholding Agency: Army
Property Number: 21200320160
Status: Unutilized
GSA Number:
Comments: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldgs. 1523–1526
U.S. Military Academy
Training Area
Highlands NY 10996
Landholding Agency: Army
Property Number: 21200320161
Status: Unutilized
GSA Number:
Comments: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldgs. 1704–1705, 1721–1722
U.S. Military Academy
Training Area
Highlands NY 10996
Landholding Agency: Army
Property Number: 21200320162
Status: Unutilized
GSA Number:
Comments: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldg. 1723
U.S. Military Academy
Training Area
Highlands NY 10996
Landholding Agency: Army
Property Number: 21200320163
Status: Unutilized
GSA Number:
Comments: 2400 sq. ft., needs rehab, most recent use—day room, off-site use only

Bldgs. 1706–1709
U.S. Military Academy
Training Area
Highlands NY 10996
Landholding Agency: Army
Property Number: 21200320164
Status: Unutilized
GSA Number:
Comments: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldgs. 1731–1735
U.S. Military Academy
Training Area
Highlands NY 10996
Landholding Agency: Army
Property Number: 21200320165
Status: Unutilized
GSA Number:
Comments: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

North Carolina

Bldg. N4116
Fort Bragg
Ft. Bragg NC 28310
Landholding Agency: Army
Property Number: 21200240087
Status: Excess
GSA Number:
Comments: 3944 sq. ft., possible asbestos/lead paint, most recent use—community facility, off-site use only

Texas

Bldgs. 4219, 4227
Fort Hood
Ft. Hood TX 76544
Landholding Agency: Army
Property Number: 21200220139
Status: Unutilized
GSA Number:
Comments: 8056, 500 sq. ft., most recent use—admin., off-site use only

Bldgs. 4229, 4230, 4231
Fort Hood
Ft. Hood TX 76544
Landholding Agency: Army
Property Number: 21200220140
Status: Unutilized
GSA Number:
Comments: 9000 sq. ft., most recent use—hq. bldg., off-site use only

Bldgs. 4244, 4246
Fort Hood
Ft. Hood TX 76544
Landholding Agency: Army
Property Number: 21200220141
Status: Unutilized
GSA Number:
Comments: 9000 sq. ft., most recent use—storage, off-site use only

Bldgs. 4260, 4261, 4262
Fort Hood
Ft. Hood TX 76544
Landholding Agency: Army
Property Number: 21200220142
Status: Unutilized
GSA Number:
Comments: 7680 sq. ft., most recent use—storage, off-site use only

Bldg. 04335
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200440090
Status: Excess
Comments: 3378 sq. ft., possible asbestos, most recent use—general, off-site use only

Bldg. 04465
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200440094
Status: Excess
Comments: 5310 sq. ft., possible asbestos, most recent use—general, off-site use only

Bldg. 04468
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200440096
Status: Excess
Comments: 3100 sq. ft., possible asbestos, most recent use—misc., off-site use only

Bldgs. 04475–04476
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200440098
Status: Excess
Comments: 3241 sq. ft., possible asbestos, most recent use—general, off-site use only

Bldg. 04477
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200440099
Status: Excess
Comments: 3100 sq. ft., possible asbestos, most recent use—general, off-site use only

Bldg. 07002
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200440100
Status: Excess
Comments: 2598 sq. ft., possible asbestos, most recent use—fire station, off-site use only

Bldg. 57001
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200440105
Status: Excess
Comments: 53,024 sq. ft., possible asbestos, most recent use—storage, off-site use only

Bldgs. 125, 126
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620075
Status: Excess
Comments: 2700/7200 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 190
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620076
Status: Excess
Comments: 2995 sq. ft., presence of asbestos, most recent use—conf. center, off-site use only

Bldg. 02240
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620078

Status: Excess
Comments: 487 sq. ft., presence of asbestos, most recent use—pool svc bldg, off-site use only

Bldg. 04164
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620079
Status: Excess
Comments: 2253 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldgs. 04218, 04228
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620080
Status: Excess
Comments: 4682/9000 sq. ft., presence of asbestos, most recent use—admin, off-site use only

Bldg. 04272
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620081
Status: Excess
Comments: 7680 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04415
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620083
Status: Excess
Comments: 1750 sq. ft., presence of asbestos, most recent use—classroom, off-site use only

4 Bldgs
Fort Hood
04419, 04420, 04421, 04424
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620084
Status: Excess
Comments: 5310 sq. ft., presence of asbestos, most recent use—admin., off-site use only

4 Bldgs.
Fort Hood
04425, 04426, 04427, 04429
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620085
Status: Excess
Comments: 5310 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 04430
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620087
Status: Excess
Comments: 3241 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04434
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620088
Status: Excess
Comments: 5310 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldgs. 04470, 04471
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620090
Status: Excess
Comments: 3241 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 04493
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620091
Status: Excess
Comments: 3108 sq. ft., presence of asbestos, most recent use—housing maint., off-site use only

Bldg. 04494
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620092
Status: Excess
Comments: 2686 sq. ft., presence of asbestos, most recent use—repair bays, off-site use only

Bldg. 04632
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620093
Status: Excess
Comments: 4000 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04640
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620094
Status: Excess
Comments: 1600 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04645
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620095
Status: Excess
Comments: 5300 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04906
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620096
Status: Excess
Comments: 1040 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 20121
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620097
Status: Excess
Comments: 5200 sq. ft., presence of asbestos, most recent use—rec center, off-site use only

Bldg. 91052
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200620101
Status: Excess
Comments: 224 sq. ft., presence of asbestos, most recent use—lab/test, off-site use only

Bldg. 1345
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740070
Status: Excess
Comments: 240 sq. ft., presence of asbestos, most recent use—oil storage, off-site use only

Bldgs. 1348, 1941
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740071
Status: Excess
Comments: 640/900 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 1919
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740072
Status: Excess
Comments: 80 sq. ft., presence of asbestos, most recent use—pump station, off-site use only

Bldg. 1943
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740073
Status: Excess
Comments: 780 sq. ft., presence of asbestos, most recent use—rod & gun club, off-site use only

Bldg. 1946
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740074
Status: Excess
Comments: 2880 sq. ft., presence of asbestos, most recent us—storage, off-site use only

Bldg. 4207
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740076
Status: Excess
Comments: 2240 sq. ft., presence of asbestos, most recent use—maint. shop, off-site use only

Bldg. 4208
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740077
Status: Excess
Comments: 9464 sq. ft., presence of asbestos, most recent use—warehouse, off-site use only

Bldgs. 4210, 4211, 4216
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740078
Status: Excess
Comments: 4625/5280 sq. ft., presence of asbestos, most recent use—maint., off-site use only

Bldg. 4219A
Fort Hood
Bell TX 76544
Landholding Agency: Army

Property Number: 21200740079
Status: Excess
Comments: 446 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04252
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740081
Status: Excess
Comments: 9000 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 4255
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740082
Status: Excess
Comments: 448 sq ft., presence of asbestos, off-site use only

Bldg. 04480
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740083
Status: Excess
Comments: 2700 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 04485
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740084
Status: Excess
Comments: 640 sq. ft., presence of asbestos, most recent use—maint., off-site use only

Bldg. 04489
Fort Hood
Ft. Hood TX 76544
Landholding Agency: Army
Property Number: 21200740086
Status: Excess
Comments: 880 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldgs. 4491, 4492
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740087
Status: Excess
Comments: 3108/1040 sq. ft., presence of asbestos, most recent use—maint., off-site use only

Bldgs. 04902, 04905
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740088
Status: Excess
Comments: 2575/6136 sq. ft., presence of asbestos, most recent use—vet bldg., off-site use only

Bldgs. 04914, 04915, 04916
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740089
Status: Excess
Comments: 371 sq. ft., presence of asbestos, most recent use—animal shelter, off-site use only

Bldg. 20102
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740091
Status: Excess
Comments: 252 sq. ft., presence of asbestos, most recent use—recreation services, off-site use only

Bldg. 20118
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740092
Status: Excess
Comments: 320 sq. ft., presence of asbestos, most recent use—maint.,off-site use only

Bldg. 29027
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740093
Status: Excess
Comments: 2240 sq. ft., presence of asbestos, most recent use—hdqts bldg, off-site use only

Bldg. 56017
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740094
Status: Excess
Comments: 2592 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 56202
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740095
Status: Excess
Comments: 1152 sq. ft., presence of asbestos, most recent use—training, off-site use only

Bldg. 56224
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740096
Status: Excess
Comments: 80 sq. ft., presence of asbestos, off-site use only

Bldg. 56305
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740097
Status: Excess
Comments: 2160 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 56311
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740098
Status: Excess
Comments: 480 sq. ft., presence of asbestos, most recent use—laundry, off-site use only

Bldg. 56329
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740100
Status: Excess
Comments: 2080 sq. ft., presence of asbestos, most recent use—officers' qtrs., off-site use only

Bldg. 92043
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740102
Status: Excess
Comments: 450 sq. ft., presence of asbestos, most recent use—storage, off-site use only

Bldg. 92072
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740103
Status: Excess
Comments: 2400 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 92083
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740104
Status: Excess
Comments: 240 sq. ft., presence of asbestos, most recent use—utility bldg., off-site use only

Bldgs. 04213, 04227
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740189
Status: Excess
Comments: 14183/10500 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 4404
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740190
Status: Excess
Comments: 8043 sq ft., presence of asbestos, most recent use—training bldg., off-site use only

Bldg. 56607
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740191
Status: Excess
Comments: 3552 sq. ft., presence of asbestos, most recent use—chapel, off-site use only

Bldg. 91041
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740192
Status: Excess
Comments: 1920 sq. ft., presence of asbestos, most recent use—shed, off-site use only

5 Bldgs.
Fort Hood
93010, 93011, 93012, 93014
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740193
Status: Excess
Comments: 210/800 sq. ft., presence of asbestos, most recent use—private club, off-site use only

Bldg. 94031
Fort Hood
Bell TX 76544
Landholding Agency: Army
Property Number: 21200740194
Status: Excess
Comments: 1008 sq. ft., presence of asbestos, most recent use—training, off-site use only

Virginia

Bldg. T2827
Fort Pickett
Blackstone VA 23824
Landholding Agency: Army
Property Number: 21200320172
Status: Unutilized
GSA Number:
Comments: 3550 sq. ft., presence of asbestos, most recent use—dining, off-site use only

Bldg. T2841
Fort Pickett
Blackstone VA 23824
Landholding Agency: Army
Property Number: 21200320173
Status: Unutilized
GSA Number:
Comments: 2950 sq. ft., presence of asbestos, most recent use—dining, off-site use only

Bldg. 01014
Fort Story
Ft. Story VA 23459
Landholding Agency: Army
Property Number: 21200720067
Status: Unutilized
Comments: 1014 sq. ft., most recent use—admin., off-site use only

Bldg. 01063
Fort Story
Ft. Story VA 23459
Landholding Agency: Army
Property Number: 21200720072
Status: Unutilized
Comments: 2000 sq. ft., most recent use—storage, off-site use only

Bldg. 00215
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720073
Status: Unutilized
Comments: 2540 sq. ft., most recent use—admin., off-site use only

4 Bldgs.
Fort Eustis
01514, 01523, 01528, 01529
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720074
Status: Unutilized
Comments: 4720 sq. ft., most recent use—admin., off-site use only

4 Bldgs.
Fort Eustis
01534, 01542, 01549, 01557
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720075
Status: Unutilized
Comments: 4720 sq. ft., most recent use—admin., off-site use only

Bldgs. 01707, 01719
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720077
Status: Unutilized
Comments: 4720 sq. ft., most recent use—admin., off-site use only

Bldg. 01720
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720078
Status: Unutilized
Comments: 1984 sq. ft., most recent use—admin., off-site use only

Bldgs. 01721, 01725
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720079
Status: Unutilized
Comments: 4720 sq. ft., most recent use—admin., off-site use only

Bldgs. 01726, 01735, 01736
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720080
Status: Unutilized
Comments: 1144 sq. ft., most recent use—admin., off-site use only

Bldgs. 01734, 01745, 01747
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720081
Status: Unutilized
Comments: 4720 sq. ft., most recent use—admin., off-site use only

Bldg. 01741
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720082
Status: Unutilized
Comments: 1984 sq. ft., most recent use—admin., off-site use only

Bldg. 02720
Fort Eustis
Ft. Eustis VA 23604
Landholding Agency: Army
Property Number: 21200720083
Status: Unutilized
Comments: 400 sq. ft., most recent use—storage, off-site use only

Washington

Bldg. 05904
Fort Lewis
Ft. Lewis WA 98433–9500
Landholding Agency: Army
Property Number: 21200240092
Status: Excess
GSA Number:
Comments: 82 sq. ft., most recent use—guard shack, off-site use only

Unsuitable Properties

Buildings (by State)

Alaska

3 Bldgs., Fort Wainwright
Ft. Wainwright AK 99703
Landholding Agency: Army
Property Number: 21200610001–21200610002
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured area Floodway

8 Bldgs., Fort Richardson
Ft. Richardson Co: AK 99505
Landholding Agency: Army
Property Number: 21200340006, 21200820058, 21200830006, 21201030001
Status: Excess
Reason: Extensive deterioration

Bldg. 02A60
Noatak Armory
Kotzebue AK
Landholding Agency: Army
Property Number: 21200740105
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material

Bldgs. 00655, XTENA
Fort Greely
Fort Greely AK 96740
Landholding Agency: Army
Property Number: 21200930004, 21200940021
Status: Unutilized
Reasons: Secured Area Extensive deterioration Within 2000 ft. of flammable or explosive material

Alabama

148 Bldgs.
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–
Landholding Agency: Army
Property Number: 21200020002, 21200040001–21200040012, 21200120018, 21200220003–21200220004, 21200240007–21200240022, 21200330001–2120330004, 21200340011, 21200340095, 21200420068–21200420071, 21200440001, 21200520002, 21200540002–21200540006, 21200610003, 21200620002, 21200630020, 21200740108, 21200810002, 21200830007, 21200840003–21200840007, 21200920011, 21200940015–21200940017, 21201020002, 21201030002, 21201120092–21201120095, 21201120102–21201120106
Status: Unutilized
Reason: Secured Area & Extensive deterioration

44 Bldgs., Fort Rucker
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 21200040013, 21200440005, 21200540001, 21200540100, 21200610008, 21200620001, 21200640002–21200640005, 21200720001 21201010003–21201010005, 21201030004, 21201120053
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs. Fort McClellan
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 21200430004, 21201020003
Status: Unutilized
Reason: Extensive deterioration

11 Bldgs., Anniston Army Depot
Calhoun AL 36201
Landholding Agency: Army
Property Number: 21200920029, 21201010002, 21201020001
Status: Unutilized
Reasons: Extensive deterioration

3 Bldgs. 30109, 30112, 30120
Cairns AAF
Daleville AL 36322
Landholding Agency: Army
Property Number: 21201030005
Status: Unutilized
Reasons: Secured Area

Arizona

32 Bldgs.
Navajo Depot Activity

Bellemont Co: Coconino AZ 86015–
Location:
12 miles west of Flagstaff, Arizona on I–40
Landholding Agency: Army
Property Number: 219014560–219014591
Status: Underutilized
Reason: Secured Area

10 properties: 753 earth covered igloos; above ground standard magazines
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40.
Landholding Agency: Army
Property Number: 219014592–219014601
Status: Underutilized
Reason: Secured Area

7 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–5000
Location: 12 miles west of Flagstaff on I–40
Landholding Agency: Army
Property Number: 219030273, 219120177–219120181
Status: Unutilized
Reason: Secured Area

102 Bldgs.
Camp Navajo
Bellemont Co: AZ 86015
Landholding Agency: Army
Property Number: 21200140006–21200140010 21200740109–21200740114
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area (Most are extensively deteriorated)

7 Bldgs.
Papago Park Military Rsv
Phoenix AZ 85008
Landholding Agency: Army
Property Number: 21200740001–21200740002
Status: Unutilized
Reason: Extensive deterioration, Within airport runway clear zone, Secured Area

Bldgs. 30025, 43003, Fort Huachuca
Cochise AZ 85613
Landholding Agency: Army
Property Number: 21200920030
Status: Excess
Reason: Extensive deterioration

Arkansas

190 Bldgs., Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219630019, 219630021, 219630029, 219640462–219640477, 21200110001–21200110017, 21200140011–21200140014, 21200530001
Status: Unutilized
Reason: Extensive deterioration

20 Bldgs., Pine Bluff Arsenal
Jefferson AR 71602
Landholding Agency: Army
Property Number: 21200820059–21200820060
Status: Unutilized
Reason: Secured Area

California

Bldg. 18
Riverbank Army Ammunition Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219012554
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

13 Bldgs.
Riverbank Army Ammunition Plant
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219013582–219013588, 219013590, 219240444–219240446, 21200530003, 21200840009
Status: Underutilized
Reason: Secured Area

Bldgs. 13, 171, 178 Riverbank Ammo Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219120162–219120164
Status: Underutilized
Reason: Secured Area

43 Bldgs.
DDDRW Sharpe Facility
Tracy Co: San Joaquin CA 95331
Landholding Agency: Army
Property Number: 219610289, 21199930021, 21200030005–21200030015, 21200040015, 21200120029–21200120039, 21200130004, 21200240025–21200240030, 21200330007, 21200920031, 21200930005
Status: Unutilized
Reason: Secured Area

62 Bldgs.
Los Alamitos Co: Orange CA 90720–5001
Landholding Agency: Army
Property Number: 219520040, 21200530002, 21200940023
Status: Unutilized
Reason: Extensive deterioration

8 Bldgs.
Sierra Army Depot
Herlong Co: Lassen CA 96113
Landholding Agency: Army
Property Number: 21199840015, 21199920033–21199920036
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

575 Bldgs., Camp Roberts
Camp Roberts Co: San Obispo CA
Landholding Agency: Army
Property Number: 21199730014, 219820205–219820234, 21200530004, 21200540007–21200540031, 21200830009–21200830010
Status: Excess
Reason: Secured Area, Extensive deterioration

24 Bldgs.
Presidio of Monterey Annex
Seaside Co: Monterey CA 93944
Landholding Agency: Army
Property Number: 21199940051
Status: Unutilized
Reason: Extensive deterioration

46 Bldgs.
Fort Irwin
Ft. Irwin Co: San Bernardino CA 92310
Landholding Agency: Army
Property Number: 21199920037–21199920038, 21200030016–21200030018, 21200040014, 21200110018–21200110020, 21200130002–21200130003, 21200210001–21200210005, 21200240031–21200240033
Status: Unutilized
Reason: Secured Area, Extensive deterioration

10 Bldgs.
Fort Hunter Liggett
Monterey CA 93928
Landholding Agency: Army
Property Number: 21200840008, 21200940024
Status: Unutilized
Reasons: Extensive deterioration

15 Bldgs, March AFRC
Riverside CA 92518
Landholding Agency: Army
Property Number: 21200710001–21200710002, 21201120031, 21201120032, 2 1201120054, 2120120055
Status: Unutilized
Reason: Extensive deterioration, Secured Area and Contamination

4 Bldgs., Camp Parks
Dublin CA 94568
Landholding Agency: Army
Property Number: 21201010006
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00053, Moffett Community Housing
Santa Clara CA 94035
Landholding Agency: Army
Property Number: 21200940022
Status: Unutilized
Reason: Extensive deterioration

Bldg. C901
Sandia Nat'l Lab
Livermore CA 94551
Landholding Agency: Energy
Property Number: 41201120002
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Colorado

Bldgs. T–317, T–412, 431, 433
Rocky Mountain Arsenal
Commerce Co: Adams CO 80022–2180
Landholding Agency: Army
Property Number: 219320013–219320016
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

23 Bldgs. Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219830024, 21200130006–21200130009, 21200420161–21200420164, 21200720003, 21200740003–21200740004, 21200820063, 21200930007, 21201020004
Status: Unutilized
Reason: Extensive deterioration, (Some are within 2000 ft. of flammable or explosive material)

29 Bldgs., Pueblo Chemical Depot
Pueblo CO 81006–9330
Landholding Agency: Army
Property Number: 21200030019–21200030021, 21200420165–21200420166, 21200610009–21200610010, 21200630023, 21200720002, 21200720007–21200720008, 21200930008
Status: Unutilized
Reason: Extensive deterioration, Secured Area

District of Columbia

Bldg. 51, Fort McNair

Washington, DC
Landholding Agency: Army
Property Number: 21201020005
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Facilities 305 and 306
Washington Navy Yard
Washington DC 20374
Landholding Agency: Navy
Property Number: 77201120008
Status: Unutilized
Reasons: Floodway, Extensive deterioration, Contamination

Florida

Bldg. 921
NAS
Jacksonville FL
Landholding Agency: Navy
Property Number: 77201120010
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Georgia

Fort Stewart, Sewage Treatment Plant
Ft. Stewart Co: Hinesville GA 31314–
Landholding Agency: Army
Property Number: 219013922
Status: Unutilized
Reason: Sewage treatment

10 Bldgs., Fort Gordon
Augusta Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 21200610012, 21200720009–21200720010
Status: Unutilized
Reason: Extensive deterioration

172 Bldgs., Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219610320, 219810028, 219810030, 219830073, 21200030026, 21200330008–21200330010, 21200410002–21200410009, 21200430011–21200430016, 21200440009, 21200510003, 21200610011, 21200620004, 21200630024–21200630027, 21200640007–21200640020, 21200710011, 21200720004–21200720005, 21200740006, 21200740121–21200740122, 21200820064, 21200830011, 21200840015, 21200920014, 21200920032, 21200940027, 21201020006, 21201030007, 21201120033, 21201120049, 21201120050–21201120052
Status: Unutilized
Reason: Extensive deterioration

24 Bldgs.
Fort Gillem
Forest Park Co: Clayton GA 30050
Landholding Agency: Army
Property Number: 219620815, 21200140016, 21200220011–21200220012, 21200230005, 21200340013–21200340016, 21200420074–21200420082, 21200810003
Status: Unutilized
Reason: Extensive deterioration, Secured Area

44 Bldgs. Fort Stewart
Hinesville Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21199940060, 21200540034, 21200710005–21200710009, 21200720011, 21200740007, 21200740123–21200740125, 21200820066, 21200920013, 21200920034, 21200940025, 21201030009
Status: Unutilized
Reason: Extensive Deterioration

20 Bldgs., Hunter Army Airfield
Savannah Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 219830068, 21200710010, 21200720012, 21200740117–21200740119, 21200820065, 21200920012, 21200920033, 21200940026, 21201030008
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs., Fort McPherson
Ft. McPherson Co: Fulton GA 30330–5000
Landholding Agency: Army
Property Number: 21200040016–21200040018, 21200230004, 21200520004
Status: Unutilized
Reason: Secured Area

Bldgs. 00023, 00049, 00070, Camp Merrill
Dahlonega Co: Lumpkin GA 30533
Landholding Agency: Army
Property Number: 21200520005
Status: Unutilized
Reason: Extensive deterioration

Bldgs. TR9, TR10, TR11
Catoosa Area Training Center
Tunnel Hill GA 30755
Property Number: 21201030006
Status: Excess
Reasons: Secured Area

Hawaii

49 Bldgs., Schofield Barracks
Wahiawa Co: Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219014836–219014837, 21200540035–21200540037, 21200620008–21200620010, 21200640022, 21200740010–21200740012, 21200840016, 21200920015, 21201020010, 21201030010, 21201120006
Status: Unutilized
Reason: Secured Area (Most are extensively deteriorated)

70 Bldgs.
Kipapa Ammo Storage Site
Honolulu Co: HI 96786
Landholding Agency: Army
Property Number: 21200520006, 21200620011
Status: Unutilized
Reason: Extensive deterioration

12 Bldgs.
Wheeler Army Airfield
Honolulu Co: HI 96786
Landholding Agency: Army
Property Number: 21200520008, 21200620006–21200620007, 21200630028, 21200830012, 21200940040, 21201030011, 21201120101
Status: Unutilized
Reason: Extensive deterioration (Some are in a secured area and within airport runway.)

140 Bldgs., Aliamanu
Honolulu Co: HI 96818
Landholding Agency: Army
Property Number: 21200440015–21200440017, 21200620005
Status: Unutilized
Reason: Contamination (Some are in a secured area)

7 Bldgs., Kalaeloa
Kapolei HI 96707
Landholding Agency: Army
Property Number: 21200640108–21200640112
Status: Unutilized
Reasons: Extensive deterioration

6 Facilities
Tanapag, USARC
Tanapag, HI
Landholding Agency: Army
Property Number: 21200740008, 21200830047, 21200920035
Status: Unutilized
Reasons: Extensive deterioration

3 Bldgs., Fort Shafter
Honolulu, HI 96858
Landholding Agency: Army
Property Number: 21200940039, 21201020007
Status: Unutilized
Reasons: Extensive deterioration

1 Bldg., Makua Military Reservation
Honolulu CO: Waianae, HI 96792
Landholding Agency: Army
Property Number: 21200940039, 21201020007, 21201120062
Status: Unutilized
Reasons: Extensive deterioration and some secured area

Idaho

Bldg. 00110, Wilder
Canyon ID 83676
Landholding Agency: Army
Property Number: 21200740134
Status: Unutilized
Reasons: Secured Area and Extensive deterioration

Bldg. 00011, Edgemeade
Elmore ID 83647
Landholding Agency: Army
Property Number: 21200930009
Status: Unutilized
Reason: Extensive deterioration

MFC–750B Storage Shed #5
Idaho Nat'l Lab
Idaho Falls ID
Landholding Agency: Energy
Property Number: 41201120003
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Illinois

3 Bldgs.
Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–5000
Landholding Agency: Army
Property Number: 21200140044, 21200920037, 21201120096
Status: Unutilized
Reason: Some are in a secured area, Some are extensively deteriorated, Some are within 2000 ft. of flammable or explosive material

15 Bldgs.
Charles Melvin Price Support Center
Granite City Co: Madison IL 62040
Landholding Agency: Army
Property Number: 219820027, 21199930042–21199930053
Status: Unutilized
Reason: Secured Area, Floodway, Extensive deterioration

Indiana

135 Bldgs., Newport Army Ammunition Plant

Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219011584, 219011586–219011587, 219011589–219011590, 219011592–219011627, 219011629–219011636, 219011638–219011641, 219210149, 219430336, 219430338, 219530079–219530093, 219740021–219740026, 219820031–219820032, 21200610013–21200610014, 21200710025, 21200820037
Status: Unutilized
Reason: Secured Area, (Some are extensively deteriorated.)

2 Bldgs., Atterbury Reserve Forces Training Area
Edinburgh Co: Johnson IN 46124–1096
Landholding Agency: Army
Property Number: 219230030–219230031
Status: Unutilized
Reason: Extensive deterioration

Bldg. 481 Jefferson Proving Ground
Madison IN 47250
Landholding Agency: Army
Property Number: 21201020008
Status: Excess
Reasons: Extensive deterioration

Iowa

202 Bldgs., Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219012605–219012607, 219012609, 219012611, 219012613, 219012620, 219012622, 219012624, 219013706–219013738, 219120172–219120174, 219440112–219440158, 219520002, 219520070, 219740027, 21200220022, 21200230019–21200230023, 21200330012–21200330014, 21200340017, 21200420083, 21200430018, 21200440018, 21200510004–21200510006, 21200520009, 21200540038–21200540039, 21200620012, 21200710020–21200710024, 21200740126–21200740133, 21200810008, 21201120005
Status: Unutilized
Reason: (Many are in a Secured Area and some extensive deterioration) (Most are within 2000 ft. of flammable or explosive material)

27 Bldgs., Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638
Landholding Agency: Army
Property Number:219230005–219230029, 219310017, 219340091
Status: Unutilized
Reason: Extensive deterioration

Bldgs. TD010, TD020
Camp Dodge
Johnson IA 50131
Landholding Agency: Army
Property Number: 21200920036
Status: Excess
Reasons: Extensive deterioration

Kansas

37 Bldgs.
Kansas Army Ammunition Plant
Production Area
Parsons Co: Labette KS 67357–
Landholding Agency: Army
Property Number: 219011909–219011945
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material)

121 Bldgs.
Kansas Army Ammunition Plant
Parsons Co: Labette KS 67357
Landholding Agency: Army
Property Number: 219620518–219620638
Status: Unutilized
Reason: Secured Area

28 Bldgs.
Fort Riley
Ft. Riley Co: Riley KS 66442
Landholding Agency: Army
Property Number: 21200310007, 21200540040, 21200740135, 21200920038–21200920039, 21200940041, 21201120068, 21201120069, 21201120071–21201120074, 21201120078–21201120079, 21201120082–21201120083, 21201120085, 21201120087–21201120091
Status: Unutilized
Reason: Extensive deterioration, many have hazmat conditions

3 Bldgs.
Fort Leavenworth
Leavenworth KS 66027
Landholding Agency: Army
Property Number: 21200820068, 21200840018
Status: Unutilized
Reason: Extensive deterioration

Atchison Storage
Atchison Storage Cave Facility
Atchison KS 66002
Landholding Agency: GSA
Property Number: 54201120014
Status: Excess
GSA Number: 7–D–KS–0490–AA
Reason: Within airport runway clear zone, Contamination

Kentucky

Bldg. 127, Lexington Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Landholding Agency: Army
Property Number: 219011661
Status: Unutilized
Reason: Secured Area and some Extensive deterioration; Sewage treatment facility

Bldg. 12
Lexington Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Landholding Agency: Army
Property Number: 219011663
Status: Unutilized
Reason: Industrial waste treatment plant

69 Bldgs., Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 21200130028–21200130029, 21200440025–21200440026, 21200510007–21200510009, 21200640023, 21200740014, 21200820070, 21200840019–21200840021, 21200930011, 21200940042
Status: Unutilized
Reason: Extensive deterioration

102 Bldgs., Fort Campbell
Ft. Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 21200110043, 21200220029, 21200520015, 21200640028–21200640029, 21200720014–21200720024, 21200740139, 21201010007, 21201030013
Status: Unutilized
Reason: Extensive deterioration

12 Bldgs., Blue Grass Army Depot
Richmond Co: Madison KY 40475
Landholding Agency: Army
Property Number: 21200520011, 21200830014, 21201020011, 21201030012
Status: Unutilized
Reason: Secured Area

Louisiana

528 Bldgs.
Louisiana Army Ammunition Plant
Doylin Co: Webster LA 71023–
Landholding Agency: Army
Property Number: 219011714–219011716, 219011735–219011737, 219012112, 219013863–219013869, 219110131, 219240138–219240147, 219420332, 219610049–219610263, 219620002–219620200, 219620749–219620801, 219820047–219820078
Status: Unutilized
Reason: Secured Area, (Most are within 2000 ft. of flammable or explosive material) (Some are extensively deteriorated)

215 Bldgs., Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–7100
Landholding Agency: Army
Property Number: 21199920070, 21200130030–21200130043, 21200530008–21200530017, 21200610016–21200610019, 21200620014, 21200640036–21200640048, 21200820002–21200820012, 21200830015–21200830016
Status: Unutilized
Reason: Extensive deterioration; (Some are in Floodway.)

Maryland

230 Bldgs., Aberdeen Proving Ground
Aberdeen City Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219012610, 219012638–219012640, 219012658, 219610489–219610490, 219730077, 219810076–219810112, 219820090, 219820096, 21200120059, 21200120060, 21200410017–21200410032, 21200420098–21200420100, 21200440027, 21200520021, 21200740015, 21200740141–21200740144, 21200810011–21200810018, 21200820134–21200820142, 21200840025–21200840033, 21200920016, 21200920044–21200920045, 21200940028–21200940030, 21201020012
Status: Unutilized
Reason: Most are in a secured area. (Some are within 2000 ft. of flammable or explosive material) (Some are in a floodway) (Some are extensively deteriorated)

63 Bldgs. Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 219810065, 21200140059–21200140060, 21200410014, 21200510018, 21200520020, 21200620015, 21200640049–21200640050, 21200710031, 21200740016
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00211, Curtis Bay Ordnance Depot
Baltimore Co: MD 21226
Landholding Agency: Army
Property Number: 21200320024

Status: Unutilized
Reason: Extensive deterioration

17 Bldgs., Fort Detrick
Frederick Co: MD 21702
Landholding Agency: Army
Property Number: 21200540041, 21200640113, 21200720026, 21200740140, 21200810019, 21200840023–21200840024, 21200940043, 21201030014
Status: Unutilized
Reason: Secured Area

Bldg. 0001B, Federal Support Center
Olney Co: Montgomery MD 20882
Landholding Agency: Army
Property Number: 21200530018
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material

Bldg. SPITO, Adelphi Lab Center
Prince George MD 20783
Landholding Agency: Army
Property Number: 21201010008
Status: Unutilized
Reasons: Extensive deterioration

Massachusetts

Bldg. 3713, USAG Devens
Devens MA 01434
Landholding Agency: Army
Property Number: 21200840022
Status: Excess
Reasons: Secured Area

Michigan

Bldgs. 5755–5756
Newport Weekend Training Site
Carleton Co: Monroe MI 48166
Landholding Agency: Army
Property Number: 219310060–219310061
Status: Unutilized
Reason: Secured Area; Extensive deterioration

54 Bldgs.
Fort Custer Training Center
2501 26th Street
Augusta Co: Kalamazoo MI 49102–9205
Landholding Agency: Army
Property Number: 21200220058–21200220062, 21200410036–21200410042, 21200540048–21200540051
Status: Unutilized
Reason: Extensive deterioration

39 Bldgs.
US Army Garrison-Selfridge
Macomb Co: MI 48045
Landholding Agency: Army
Property Number: 21200420093, 21200510020–21200510023
Status: Unutilized
Reason: Secured Area

4 Bldgs., Poxin USAR Center
Southfield Co: Oakland MI 48034
Landholding Agency: Army
Property Number: 21200330026–21200330027, 21200420095
Status: Unutilized
Reason: Extensive deterioration

20 Bldgs.
Grayling Army Airfield
Grayling Co: Crawford MI 49739
Landholding Agency: Army
Property Number: 21200410034–21200410035, 21200540042–21200540047
Status: Excess
Reason: Extensive deterioration

Bldg. 001, Crabble USARC
Saginaw MI 48601–4099
Landholding Agency: Army
Property Number: 21200420094
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00714
Selfridge Air Nat'l Guard Base
Macomb Co: MI 48045
Landholding Agency: Army
Property Number: 21200440032
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Detroit Arsenal
T0209, T0216, T0246, T0247
Warren Co: Macomb MI 88397–5000
Landholding Agency: Army
Property Number: 21200520022, 21201010009
Status: Unutilized
Reason: Secured Area

Minnesota

160 Bldgs.
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey, MN 55112–
Landholding Agency: Army
Property Number: 219120166, 219210014–219210015, 219220227–219220235, 219240328, 219310056, 219320152–219320156, 219330096–219330106, 219340015, 219410159–219410189, 219420198–219420283, 219430060–219430064, 21200130053–21200130054
Status: Unutilized
Reason: Secured Area, (Most are within 2000 ft. of flammable or explosive material.) (Some are extensively deteriorated)

Missouri

131 Bldgs., Lake City Army Ammo. Plant
Independence Co: Jackson MO 64050–
Landholding Agency: Army
Property Number: 219013666–219013669, 219530134, 219530136, 21199910023–21199910035, 21199920082, 21200030049, 21200820001, 21201010011–21201010015
Status: Unutilized
Reason: Secured Area; (Some are within 2000 ft. of flammable or explosive material)

9 Bldgs.
St. Louis Army Ammunition Plant
4800 Goodfellow Blvd.
St. Louis Co: St. Louis MO 63120–1798
Landholding Agency: Army
Property Number: 219120067–219120068, 219610469–219610475
Status: Unutilized
Reason: Secured Area; (Some are extensively deteriorated.)

142 Bldgs., Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219430075, 21199910020–21199910021, 21200320025, 21200330028–21200330031, 21200430029, 21200530019, 21200640051–21200640052, 21200740145–21200740148, 21200830017, 21200840035–21200840037, 21200920048, 21200930012, 21200940044–21200940048, 21201010010, 21201020013, 21201120010–21201120016
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; (Some are extensively deteriorated and some in secured area.)

Bldg. P4122, U.S. Army Reserve Center
St. Louis Co: St. Charles MO 63120–1794
Landholding Agency: Army
Property Number: 21200240055
Status: Unutilized
Reason: Extensive deterioration

Bldgs. P4074, P4072, P4073
St. Louis Ordnance Plant
St. Louis Co: St. Charles MO 63120–1794
Landholding Agency: Army
Property Number: 21200310019
Status: Unutilized
Reason: Extensive deterioration

Bldg. 528, Weldon Springs LTA
Saint Charles MO 63304
Landholding Agency: Army
Property Number: 21200840034
Status: Unutilized
Reasons: Extensive deterioration

Montana

5 Bldgs., Fort Harrison
Ft. Harrison Co: Lewis/Clark MT 59636
Landholding Agency: Army
Property Number: 21200420104, 21200740018
Status: Excess
Reasons: Secured Area, Extensive deterioration

Nevada

Bldg. 292
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219013614
Status: Unutilized
Reason: Secured Area

41 Bldgs.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415–
Landholding Agency: Army
Property Number: 219012013, 219013615–219013643, 21200930019
Status: Underutilized
Reason: Secured Area; (Some within airport runway clear zone; many within 2000 ft. of flammable or explosive material)

Group 101, 34, Bldgs.
Hawthorne Army Ammunition Plant
Co: Mineral, NV 89415–0015
Landholding Agency: Army
Property Number: 219830132
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area

New Jersey

326 Bldgs., Picatinny Arsenal
Dover Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219010444–219010474, 219010639–219010664, 219010680–219010715, 219012428, 219012430, 219012433–219012465, 219012469, 219012475, 219012765, 00219014306, 219014311, 219014317, 219140617, 219230123, 219420006, 219530147, 219540005, 219540007, 219740113–219740127, 21199940094–21199940099, 21200130057–21200130063, 21200220063, 21200230072–21200230075, 21200330047–21200330063,

21200410043–21200410044, 21200520024–21200520039, 21200530022–21200530028, 21200620017–21200620022, 21200630001–21200630019, 21200720028, 21200720102–21200720104, 21200810020, 21200820040–21200820047, 21200840038–21200840039, 21200920017, 21200930013,21200940031, 21201010017–21201010018, 21201020014, 21201030015, 21201120007, 21201120009
Status: Excess
Reason: Secured Area, (Most are within 2000 ft. of flammable or explosive material.) (Some are extensively deteriorated and in a floodway)

6 Bldgs., Ft. Monmouth
Ft. Monmouth Co: NJ 07703
Landholding Agency: Army
Property Number: 21200430030, 21200510025–21200510027
Status: Unutilized
Reason: Extensive deterioration

New Mexico

201 Bldgs. White Sands Missile Range
Dona Ana Co: NM 88002
Landholding Agency: Army
Property Number: 21200410045–21200410049, 21200440034–21200440045, 21200620023, 21200810024–21200810029, 21200820048, 21200930014, 21201030016, 21201120100
Status: Excess
Reason: Secured Area and Extensive Deterioration

31 Bldgs., Fort Wingate Army Depot
Gallup NM 87301
Landholding Agency: Army
Property Number: 21200920055–21200920058
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

New York

Bldg. 12, Watervliet Arsenal
Watervliet, NY
Landholding Agency: Army
Property Number: 219730099
Status: Unutilized
Reason: Extensive deterioration (Secured Area)

13 Bldgs., Youngstown Training Site
Youngstown Co: Niagara NY 14131
Landholding Agency: Army
Property Number: 21200220064–21200220069
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 1716, 3014, 3018 U.S. Military Academy
West Point Co: NY 10996
Landholding Agency: Army
Property Number: 21200330064, 21200410050, 21200520040
Status: Unutilized
Reason: Extensive deterioration
Landholding Agency: Army
Property Number: 21200410051, 21200420112–21200420118, 21200540057, 21200720106, 21200830048–21200830060, 21200840040–21200840043, 21200920018–21200920019, 21200930015–21200930018, 21200940001–21200940012, 21201010026–21201010030, 21201020015–21201020018, 21201030043–21201030049, 21201120044
Status: Unutilized
Reason: Extensive deterioration and some Secured Area

41 Bldgs., Fort Drum
Ft. Drum Co: Jefferson NY 13601
Landholding Agency: Army
PropertyNumber: 21201120035–21201120041, 21201120043, 21201120045–21201120048
Status: Underutilized
Reason: Extensive Deterioration

Bldg. 108, Fredrick J ILL, Jr. USARC
Bullville Co: Orange NY 10915–0277
Landholding Agency: Army
Property Number: 21200510028
Status: Unutilized
Reason: Secured Area

3 Bldgs., Kerry P. Hein USARC NY058
Shoreham Co: Suffolk NY 11778–9999
Landholding Agency: Army
Property Number: 21200510054
Status: Excess
Reason: Secured Area

10 Bldgs., U.S. Army Garrison
Orange Co: West Point, NY 10996
Landholding Agency: Army
Property Number: 21200810030, 21200820049, 21200840043, 21201010032, 21201120098, 21201120099
Status: Underutilized and some Unutilized
Reason: Secured Area and some planned for demolition

Bldgs. 214, 215, 228, Fort Hamilton
Brooklyn NY 11252
Landholding Agency: Army
Property Number: 21201010031
Status: Unutilized
Reasons: Secured Area

North Carolina

570 Bldgs. Fort Bragg
Ft. Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Number: 219640074, 219710102–219710110, 219710224, 219810167, 21200410056, 21200430042, 21200440050–21200440051, 21200530029–21200530047, 21200540060, 21200610020, 21200620024–21200620039, 21200630029–21200630053, 21200640055–21200640060, 21200640114, 21200720029–21200720035, 21200740020–21200740023, 21200740154–21200740159, 21200820053–21200820057, 21200830018–21200830023, 21200840044–21200840045, 21200920049–21200920052, 21200940033, 21201010033–21201010034, 21201020019–21201020022, 21201030017, 21201120021
Status: Unutilized
Reason: Extensive deterioration

3 Bldgs., Military Ocean Terminal
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 219810158–219810160, 21200330032
Status: Unutilized
Reason: Secured Area

5 Bldgs., Simmons Army Airfield
Cumberland NC 28310
Landholding Agency: Army
Property Number: 21200920053
Status: Unutilized
Reasons: Extensive deterioration & Secured Area

North Dakota

5 Bldgs., Stanley R. Mickelsen
Nekoma Co: Cavalier ND 58355
Landholding Agency: Army
Property Number: 21199940103–21199940107
Status: Unutilized
Reason: Extensive deterioration

Ohio

186 Bldgs.
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 21199840069–21199840104, 21200240064, 21200420131–21200420132, 21200530051–21200530052
Status: Unutilized
Reason: Secured Area

7 Bldgs., Lima Army Tank Plant
Lima OH 45804–1898
Landholding Agency: Army
Property Number: 219730104–219730110
Status: Unutilized
Reason: Secured Area

3 Bldgs. Defense Supply Center
Columbus Co: Franklin OH 43216
Landholding Agency: Army
Property Number: 21200640061, 21200820072, 21200920059
Status: Unutilized
Reasons: Secured Area

Oklahoma

30 Bldgs., Fort Sill
Lawton Co: Comanche OK 73503
Landholding Agency: Army
Property Number: 219510023, 21200330065, 21200430043, 21200530053–21200530060, 21200840047, 21201010035
Status: Unutilized
Reason: Extensive deterioration

Bldgs. MA050, MA070, Regional Training Institute
Oklahoma City Co: OK 73111
Landholding Agency: Army
Property Number: 21200440052
Status: Unutilized
Reason: Extensive deterioration

Bldgs. GRM03, GRM24, GRM26, GRM34
Camp Gruber Training Site
Braggs Co: OK 74423
Landholding Agency: Army
Property Number: 21200510029–21200510032
Status: Unutilized
Reason: Extensive deterioration

3 Bldgs., McAlester Army Ammo Plant
McAlester Co: Pittsburg OK 74501
Landholding Agency: Army
Property Number: 21200740024, 21201030018
Status: Excess
Reason: Secured Area

Oregon

11 Bldgs.
Tooele Army Depot
Umatilla Depot Activity

Hermiston Co: Morrow/Umatilla OR 97838-
Landholding Agency: Army
PropertyNumber: 219012174–219012176, 219012178–219012179, 219012190–219012191, 219012197–219012198, 219012217, 219012229
Status: Underutilized
Reason: Secured Area

34 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838-
Landholding Agency: Army
PropertyNumber: 219012177, 219012185–219012186, 219012189, 219012195–219012196, 219012199–219012205, 219012207–219012208, 219012225, 219012279, 219014304–219014305, 219014782, 219030362–219030363, 219120032, 21199840108–21199840110, 21199920084–21199920090
Status: Unutilized
Reason: Secured Area

Pennsylvania

23 Bldgs., Fort Indiantown Gap
Annville Co: Lebanon PA 17003–5011
Landholding Agency: Army
Property Number: 219810183–219810190
Status: Unutilized
Reason: Extensive deterioration

11 Bldgs., Defense Distribution Depot
New Cumberland Co: York PA 17070–5001
Landholding Agency: Army
Property Number: 21200830026, 21200920064, 21201020024
Status: Unutilized
Reason: Secured Area

14 Bldgs., Tobyhanna Army Depot
Tobyhanna Co: Monroe PA 18466
Landholding Agency: Army
Property Number: 21200330068, 21200820074, 21200830025, 21200920065
Status: Unutilized
Reason: Extensive deterioration

9 Bldgs., Letterkenny Army Deport
Chambersburg Co: Franklin PA 17201
Landholding Agency: Army
Property Number: 21200920063, 21200940034
Status: Unutilized
Reasons: Secured Area

8 Bldgs. Carlisle Barracks
Cumberland Co: PA 17013
Landholding Agency: Army
Property Number: 21200640115, 21200720107, 21200740026, 21200830001, 21201020023
Status: Excess
Reason: Extensive deterioration

Bldg. 00017, Scranton Army Ammo Plant
Scranton PA 18505
Landholding Agency: Army
Property Number: 21200840048
Status: Unutilized
Reasons: Secured Area

Puerto Rico

69 Bldgs., Fort Buchanan
Guaynabo Co: PR 00934
Landholding Agency: Army
Property Number: 21200530061–21200530063, 21200610023, 21200620041, 21200830027, 21200840049, 21200920066, 21201110040, 21201110041
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated)

Samoa

Bldg. 00002, Army Reserve Center
Pago AQ 96799
Landholding Agency: Army
Property Number: 21200810001
Status: Unutilized
Reason: Floodway Secured Area

South Carolina

66 Bldgs., Fort Jackson
Ft. Jackson Co: Richland SC 29207
Landholding Agency: Army
Property Number: 219440237, 219440239, 219620312, 219620317, 219620348, 219620351, 219640138–219640139, 21199640148–21199640149, 219720095, 219720097, 219730130, 219730132, 219730145–219730157, 219740138, 219820102–219820111, 219830139–219830157, 21200520050, 21200810031, 21200920067, 21201120008, 21201120017, 21201120018, 21201120019, 21201120020
Status: Unutilized
Reason: Extensive deterioration & some Secured Area

South Dakota

Bldgs. 00038, 00039
Lewis & Clark USARC
Bismarck SD 58504
Landholding Agency: Army
Property Number: 21200710033
Status: Unutilized
Reasons: Secured Area

Tennessee

135 Bldgs., Holston Army Ammunition Plant
Kingsport Co: Hawkins TN 61299–6000
Landholding Agency: Army
Property Number: 219012304–219012309, 219012311–219012312, 219012314, 219012316–219012317, 219012328, 219012330, 219012332, 219012334, 219012337, 219013790, 219140613, 219440212–219440216, 219510025–219510027, 21200230035, 21200310040, 21200320054–21200320073, 21200340056, 21200510042, 21200530064–21200530065, 21200640069–21200640072, 21200710035, 21200740160, 21201030020–21201030024
Status: Unutilized
Reason: Secured Area, (Some are within 2000 ft. of flammable or explosive material)

17 Bldgs., Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Number: 219240447–219240449, 21200520051–21200520052, 21200740028, 21200840051, 21200920068, 21200940035, 21201020025
Status: Unutilized
Reason: Secured Area, (Some are extensively deteriorated)

38 Bldgs., Fort Campbell
Ft. Campbell Co: Montgomery, TN 42223
Landholding Agency: Army
Property Number: 21200330100, 21200430052, 21200520061, 21200540063–21200610027, 21200840050, 21201030019, 21201030050, 21201120022, 21201120027
Status: Unutilized & Underutilized
Reason: Extensive deterioration & Secured Area

13 Bldgs., Fort Campbell
Ft. Campbell Co: Christian, TN 42223
Landholding Agency: Army
Property Number: 21201120023, 21201120024, 21201120025
Status: Excess
Reason: Secured Area

Bldgs. 00001, 00003, 00030
John Sevier Range
Knoxville TN 37918
Landholding Agency: Army
Property Number: 21200930021
Status: Excess
Reasons: Extensive deterioration

Texas

20 Bldgs., Lone Star Army Ammunition Plant
Highway 82 West
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219012524, 219012529, 219012533, 219012536, 219012539–219012540, 219012542, 219012544–219012545, 219030337–219030345
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

154 Bldgs., Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75661
Landholding Agency: Army
Property Number: 219620827, 21200340062–21200340073
Status: Unutilized
Reason: Secured Area, (Most are within 2000 ft. of flammable or explosive material)

13 Bldgs., Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Landholding Agency: Army
Property Number: 219420315–219420327
Status: Unutilized
Reason: Secured Area

240 Bldgs. Fort Bliss
El Paso Co: El Paso TX 79916
Landholding Agency: Army
Property Number: 219730160–219730186, 219830161–219830197, 21200310044, 21200320079, 21200340059, 21200540070–21200540073, 21200640073–21200640075, 21200710036, 21200740030, 21200740161, 21200810032, 21200820013, 21200830030–21200830039, 21200840052, 21200920021–21200920023, 21200920071, 21200930022–21200930025, 21200940036, 21201030027–21201030028, 21201120056–21201120060
Status: Unutilized
Reason: Extensive deterioration

26 Bldgs., Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200420146, 21200720108–21200720111, 21200810033, 21200920020, 21201010036, 21201030025–21201030026
Status: Unutilized
Reason: Extensive deterioration

9 Bldgs., Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21201120028, 21201120029, 2120110030
Status: Excess
Reason: Secured Area

3 Bldgs., Fort Sam Houston

Camp Bullis Co: Bexar TX
Landholding Agency: Army
Property Number: 21200520063, 21200930026
Status: Excess
Reason: Extensive deterioration

Bldg. D5040, Grand Prairie Reserve Complex
Tarrant Co: TX 75051
Landholding Agency: Army
Property Number: 21200620045
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. 00002, Denton
Lewisville TX 76102
Landholding Agency: Army
Property Number: 21200810034
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs., Fort Worth
Tarrant TX 76108
Landholding Agency: Army
Property Number: 21200830028–21200830029
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 25, Brownwood
Brown TX 76801
Landholding Agency: Army
Property Number: 21201020033
Status: Unutilized
Reasons: Extensive deterioration

Utah

54 Bldgs., Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 21200620046, 21200640076, 21200710037–21200710041, 21200740162–21200740165, 21200830002, 21200840053, 21201020032, 21201120061
Status: Unutilized
Reason: Secured Area

Bldg. 9307
Dugway Proving Ground
Dugway Co: Toole UT 84022
Landholding Agency: Army
Property Number: 219013997
Status: Underutilized
Reason: Secured Area

15 Bldgs.
Deseret Chemical Depot
Tooele UT 84074
Landholding Agency: Army
Property Number: 219820120–219820121, 21200610032–21200610034, 21200620047, 21200720036–21200720037, 21200820075
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldgs. 00259, 00206
Ogden Maintenance Center
Weber Co: UT 84404
Landholding Agency: Army
Property Number: 21200530066
Status: Excess
Reason: Secured Area

Virginia

499 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141
Landholding Agency: Army
Property Number: 219010833, 219010836, 219010842, 219010844, 219010847–219010890, 219010892–219010912, 219011521–219011577, 219011581–219011583, 219011585, 219011588, 219011591, 219013559–219013570, 219110142–219110143, 219120071, 219140618–219140633, 219220210–219220218, 219230100–219230103, 219240324, 219440219–219440225, 219510032–219510033, 219520037, 219520052, 219530194, 219610607–219610608, 219830223–219830267, 21200020079–21200020081, 21200230038, 21200240071–21200240072, 21200510045–21200510046, 21200740031–21200740032, 21200740169–21200740171, 21200920075, 21200930028–21200930029, 21200940038, 21201010038, 21201030030–21201030039
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area (Some are extensively deteriorated)

16 Bldgs., Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141
Landholding Agency: Army
Property Number: 219010834–219010835, 219010837–219010838, 219010840–219010841, 219010843, 219010845–219010846, 219010891, 219011578–219011580, 21201120063, 21201120064, 21201120065
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area, Not Accessible by Road, Contamination Latrine, detached structure

101 Bldgs.
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George, VA 23801
Landholding Agency: Army
Property Number: 21200430060, 21200620048, 21200640077–21200640080, 21200710042, 21200740033–21200740035, 21200740166, 21200810039–21200810040, 21200820017–21200820021, 21200830042
Status: Unutilized
Reason: Extensive deterioration

56 Bldgs.
Red Water Field Office
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219430341–219430396
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

138 Bldgs., Fort A.P. Hill
Bowling Green Co: Caroline VA 22427
Landholding Agency: Army
Property Number: 21200310058, 21200310060, 21200410069–21200410076, 21200430057, 21200510051, 21200740167, 21200810038, 21200820029–21200820032, 21200830041, 21200840054, 21200920072, 21200930027, 21200940037, 21201020027
Status: Unutilized
Reason: Secured Area Extensive deterioration

71 Bldgs., Fort Belvoir
Ft. Belvoir Co: Fairfax VA 22060–5116
Landholding Agency: Army
Property Number: 21200130076–21200130077, 21200710043–21200710049, 21200720043–21200720051, 21200810042–21200810043, 21200840056, 21201010037
Status: Unutilized
Reason: Extensive deterioration

15 Bldgs., Fort Eustis
Ft. Eustis Co. VA 23604
Landholding Agency: Army
Property Number: 21200810035, 21200820027, 21201010044
Status: Unutilized
Reason: Extensive deterioration

58 Bldgs., Fort Pickett
Blackstone Co: Nottoway VA 23824
Landholding Agency: Army
Property Number: 21200220087–21200220092, 21200320080–21200320085, 21200620049–21200620052, 21200820015
Status: Unutilized
Reason: Extensive deterioration

9 Bldgs., Fort Story
Ft. Story Co: Princess Ann VA 23459
Landholding Agency: Army
Property Number: 21200310046, 21200810037, 21200830040, 21200920077
Status: Unutilized
Reason: Extensive deterioration

11 Bldgs., Defense Supply Center
Richmond VA 23297
Landholding Agency: Army
Property Number: 21201020035–21201020036
Status: Unutilized
Reason: Secured Area

8 Bldgs. Fort Myer
Ft. Myer VA 22211
Landholding Agency: Army
Property Number: 21200810036, 21200820014, 21200830044, 21201010039
Status: Excess
Reason: Secured Area

8 Bldgs. Hampton Readiness Center
Hampton VA 23666
Landholding Agency: Army
Property Number: 21201020026
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 3043
Marine Corps Base
Quantico VA 22134
Landholding Agency: Navy
Property Number: 77201120009
Status: Excess
Reasons: Extensive deterioration, Secured Area

Washington

747 Bldgs., Fort Lewis
Ft. Lewis Co: Pierce WA 98433–5000
Landholding Agency: Army
Property Number: 219610006, 219610009–219610010, 219610045–219610046, 219620512–219620517, 219640193, 219720142–219720151, 219810205–219810242, 219820132, 21199910064–21199910078, 21199920125–21199920174, 21199930080–21199930104, 21199940134, 21200120068, 21200140072–21200140073, 21200210075, 21200220097, 21200330104–21200330106, 21200430061, 21200620053–21200620059, 21200630067–21200630069, 21200640087–21200640090, 21200740172, 21200820076, 21200840059, 21200920078, 21201010040–21201010042, 21201020029–21201020030, 21201030041–21201030042
Status: Unutilized

Reason: Secured Area

Bldg. HBC07, Fort Lewis
Huckleberry Creek Mountain Training Site
Co: Pierce WA
Landholding Agency: Army
Property Number: 219740166
Status: Unutilized
Reason: Extensive deterioration

Bldg. 415, Fort Worden
Port Angeles Co: Clallam WA 98362
Landholding Agency: Army
Property Number: 21199910062
Status: Excess
Reason: Extensive deterioration

Bldg. U515A, Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920124
Status: Excess
Reason: Gas chamber

Bldgs. 02401, 02402
Vancouver Barracks Cemetery
Vancouver Co: WA 98661
Landholding Agency: Army
Property Number: 21200310048
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs. Renton USARC
Renton Co: WA 980058
Landholding Agency: Army
Property Number: 21200310049
Status: Unutilized
Reason: Extensive deterioration

Wisconsin

153 Bldgs., Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913
Landholding Agency: Army
Property Number: 219011104, 219011106, 219011108–219011113, 219011115–219011117, 219011119–219011120, 219011122–219011139, 219011141–219011142, 219011144, 219011148–219011234, 219011236, 212011238, 219011240, 219011242, 219011244, 219011247, 219011249, 219011251, 219011256, 219011259, 219011263, 219011265, 219011268, 219011270, 219011275, 219011277, 219011280, 219011282, 219011284, 219011286, 219011290, 219011293, 219011295, 219011297, 219011300, 219011302, 219011304–219011311, 219011317, 219011319–219011321, 219011323
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Secured Area

4 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013871–219013873, 219013875
Status: Underutilized
Reason: Secured Area

906 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk, WI
Landholding Agency: Army
Property Number: 219013876–219013878, 219210097–219210099, 219220295–219220311, 219510065, 219510067, 219510069–219510077, 219740184–219740271, 21200020083–21200020155, 21200240074–21200240080
Status: Unutilized
Reason: (Most are in a secured area) (Most are within 2000 ft. of flammable or explosive material (Some are extensively deteriorated)

Land (by State)

Indiana

Newport Army Ammunition Plant
East of 14th St. & North of S. Blvd.
Newport Co: Vermillion IN 47966-
Landholding Agency: Army
Property Number: 219012360
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Secured Area

Maryland

Approx. 1 acre
Fort Meade
Anne Arundel MD 20755
Landholding Agency: Army
Property Number: 21200740017
Status: Unutilized
Reasons: Other—no public access

RNWYA, Aberdeen Proving Ground
Harford MD
Landholding Agency: Army
Property Number: 21200820143
Status: Unutilized
Reason: Within airport runway clear zone

Land/Land
Aberdeen Proving Ground
Harford MD 21005
Landholding Agency: Army
Property Number: 21200920046–21200920047
Status: Unutilized
Reasons: Secured Area

Minnesota

Portion of R.R. Spur
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112
Landholding Agency: Army
Property Number: 219620472
Status: Unutilized
Reason: Landlocked

New Jersey

Land
Armament Research Development & Eng. Center
Route 15 North
Picatinny Arsenal Co: Morris NJ 07806
Landholding Agency: Army
Property Number: 219013788
Status: Unutilized
Reason: Secured Area

Spur Line/Right of Way
Armament Rsch., Dev., & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219530143
Status: Unutilized
Reason: Floodway

2.0 Acres, Berkshire Trail
Armament Rsch., Dev., & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910036
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material; Secured Area

Tennessee

Sites #1, #2, #3
Fort Campbell
Christian TN 42223
Landholding Agency: Army
Property Number: 21200920070
Status: Unutilized
Reasons: Secured Area

Texas

Land—Approx. 50 acres
Lone Star Army Ammunition Plant
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219420308
Status: Unutilized
Reason: Secured Area

Land 1, Brownwood
Brown, TX 76801
Landholding Agency: Army
Property Number: 21201020034
Status: Unutilized
Reasons: Contamination

Four Parcels of Land
NAS
Corpus Christi TX 78419
Landholding Agency: Navy
Property Number: 77201120007
Status: Unutilized
Reasons: Secured Area

[FR Doc. 2011–16214 Filed 6–30–11; 8:45 am]

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Part IV

Environmental Protection Agency

40 CFR Part 80
Regulation of Fuels and Fuel Additives: 2012 Renewable Fuel Standards; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2010–0133; FRL–9324–3]

RIN 2060–AQ76

Regulation of Fuels and Fuel Additives: 2012 Renewable Fuel Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under the Clean Air Act Section 211(o), the Environmental Protection Agency is required to set the renewable fuel standards each November for the following year. In general the standards are designed to ensure that the applicable volumes of renewable fuel specified in the statute are used. However, the statue specifies that EPA is to project the volume of cellulosic biofuel production for the upcoming year and must base the cellulosic biofuel standard on that projected volume if it is less than the applicable volume set forth in the Act. EPA is today proposing a projected cellulosic biofuel volume for 2012 and annual standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and renewable fuels that would apply to all gasoline and diesel produced or imported in year 2012. In addition, today's action proposes an applicable volume of biomass-based diesel that would apply in 2013. This action also presents a number of proposed changes to the RFS2 regulations that are designed to clarify existing provisions and to address several unique circumstances that have come to light since the RFS2 program became effective on July 1, 2010. Finally, today's rule also proposes to make a minor amendment to the gasoline benzene regulations regarding inclusion of transferred blendstocks in a refinery's early benzene credit generation calculations.

DATES: Comments must be received on or before August 11, 2011.

Hearing: We intend to hold a public hearing on July 12, 2011 in the Washington, DC area, Details of the time and location of the hearing be announced in a separate notice.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2010–0133, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: asdinfo@epa.gov.*
- *Mail:* Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2010–0133. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.* For additional instructions on submitting comments, go to Section I.B of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket and Information Center, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Julia MacAllister, Office of Transportation and Air Quality, Assessment and Standards Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor MI 48105; Telephone number: 734–214–4131; Fax number: 734–214–4816; E-mail address: *macallister.julia@epa.gov,* or Assessment and Standards Division Hotline; telephone number 734 214–4636; E-mail address *asdinfo@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Entities potentially affected by this proposed rule are those involved with the production, distribution, and sale of transportation fuels, including gasoline and diesel fuel or renewable fuels such as ethanol and biodiesel. Potentially regulated categories include:

Category	NAICS [1] codes	SIC [2] codes	Examples of potentially regulated entities
Industry	324110	2911	Petroleum Refineries.
Industry	325193	2869	Ethyl alcohol manufacturing.
Industry	325199	2869	Other basic organic chemical manufacturing.
Industry	424690	5169	Chemical and allied products merchant wholesalers.
Industry	424710	5171	Petroleum bulk stations and terminals.
Industry	424720	5172	Petroleum and petroleum products merchant wholesalers.

Category	NAICS [1] codes	SIC [2] codes	Examples of potentially regulated entities
Industry	454319	5989	Other fuel dealers.

[1] North American Industry Classification System (NAICS).
[2] Standard Industrial Classification (SIC) system code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this proposed action. This table lists the types of entities that EPA is now aware could potentially be regulated by this proposed action. Other types of entities not listed in the table could also be regulated. To determine whether your activities would be regulated by this proposed action, you should carefully examine the applicability criteria in 40 CFR part 80. If you have any questions regarding the applicability of this proposed action to a particular entity, consult the person listed in the preceding section.

B. What should I consider as I prepare my comments for EPA?

1. Submitting CBI

Do not submit confidential business information (CBI) to EPA through *http://www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

Outline of This Preamble

I. Executive Summary

The Renewable Fuel Standard (RFS) program began in 2006 pursuant to the requirements in Clean Air Act (CAA) section 211(o) which were added through the Energy Policy Act of 2005 (EPAct). The statutory requirements for the RFS program were subsequently modified through the Energy Independence and Security Act of 2007 (EISA), resulting in the promulgation of revised regulatory requirements on March 26, 2010.[1] The transition from the RFS1 requirements of EPAct to the RFS2 requirements of EISA generally occurred on July 1, 2010.

Under RFS2, EPA is required to determine and publish the applicable annual percentage standards for each compliance year by November 30 of the previous year. As part of this effort, EPA must determine the projected volume of cellulosic biofuel production for the following year. If the projected volume of cellulosic biofuel production is less than the applicable volume specified in section 211(o)(2)(B)(i)(III) of the statute, EPA must lower the applicable volume used to set the annual cellulosic biofuel percentage standard to the projected volume of production. When we lower the applicable volume of cellulosic biofuel in this manner, we are also authorized to lower the applicable volumes of advanced biofuel and/or total renewable fuel by the same or a lesser amount. Since these evaluations will be based on evolving information about emerging segments of the biofuels industry, and may result in the applicable volumes differing from those in the statute, we believe that it is appropriate to establish the applicable volumes through a notice-and-comment rulemaking process. Today's notice provides our proposed evaluation of the projected production of cellulosic biofuel for 2012, our proposed evaluation of whether to lower the applicable volumes of advanced biofuel and total renewable fuel, and the proposed percentage standards for compliance year 2012. We will complete our evaluation based on comments received in response to this proposal, the estimate of projected biofuel volumes that the EIA is required to provide to EPA by October 31, and other information that becomes available, and will make final determinations of applicable volumes and percentage standards for 2012 by November 30, 2011.

The statute also requires EPA to determine and promulgate the applicable volume of biomass-based diesel that will be required in 2013 and beyond, as the statute does not specify the applicable volumes for years after 2012. This determination must be made at least 14 months prior to the year in which the volume will be required. Thus, for the 2013 compliance year, we must specify the applicable volume of biomass-based diesel by November 1, 2011. The statute identifies a number of factors that EPA must take into consideration in establishing the applicable volume of biomass-based diesel for years after 2012. Today's notice includes our proposed assessment of these factors and proposed applicable volume of biomass-based diesel for 2013.

Today's proposed rule does not include an assessment of the environmental impacts of the percentage standards we are proposing for 2012. All of the impacts of the RFS2 program were addressed in the RFS2 final rule published on March 26, 2010, including impacts of the biofuel standards specified in the statute. Today's rulemaking simply proposes the standards for 2012 whose impacts were already analyzed previously. However, as described more fully in Section IV.A, we are required to analyze a specified set of environmental and economic impacts for the biomass-based diesel volume we are proposing for 2013.

Today's notice also proposes a number of changes to the RFS2 regulations. These changes are designed to reduce confusion among regulated parties and streamline implementation by clarifying certain terms and phrases and addressing unique circumstances that came to light after the RFS2 program went into effect on July 1, 2010. Additionally, this notice also proposes to make a minor amendment to the gasoline benzene regulations regarding inclusion of transferred blendstocks in a refinery's early benzene credit generation calculations. Further discussion of all of these proposed changes can be found in Section V.

Finally, we note that in the RFS2 final rule we also stated our intent to make two announcements each year:

- Set the price for cellulosic biofuel waiver credits that will be made available to obligated parties in the event that we reduce the volume of cellulosic biofuel below the volume required by EISA.
- Announce the results of our assessment of the aggregate compliance approach for verifying renewable biomass requirements for U.S. crops and crop residue, and our conclusion regarding whether the aggregate compliance provision will continue to apply.

For both of these determinations, EPA will use specific sources of data and a methodology laid out in the RFS2 final rule. Since the necessary data for these determinations are not yet available, and the methodology for making them is specified by rule or statute, we are not including proposed determinations in this Notice. We will present the results of both of these determinations in the final rule without a prior proposal.

A. Standards for 2012

1. Assessment of 2012 Cellulosic Biofuel Volume

To estimate the volume of cellulosic biofuel that could be made available in the U.S. in 2012, we researched all potential production sources by company and facility. This included sources that were still in the planning stages, those that were under construction, and those that are already producing some volume of cellulosic ethanol, cellulosic diesel, or some other type of cellulosic biofuel. Facilities primarily focused on research and development work with no intention of marketing any fuel produced were not considered for this assessment. From this universe of potential cellulosic biofuel sources we identified the subset that had a possibility of producing some volume of qualifying cellulosic biofuel for use as transportation fuel in 2012. For the final rule, we will specify the projected available volume for 2012 that will be the basis for the percentage standard for cellulosic biofuel. To determine this final projected available volume, we will consider additional factors such as the current and expected state of funding, the status of the technology, and progress towards construction and production goals along with any other significant factors that could potentially impact fuel production or the ability of the produced fuel to generate cellulosic RINs. This information, to the extent that it is publically available, is

[1] 75 FR 14670.

discussed in further detail in Section II.B.

In our assessment we focused on domestic sources of cellulosic biofuel. While imports of cellulosic biofuels are possible and would be eligible to generate RINs, we believe this is unlikely due to local demand for cellulosic biofuels in the countries in which they are produced as well as the cost associated with transporting these fuels to the U.S. Of the domestic sources, we estimated that nine facilities have the potential to make volumes of cellulosic biofuel available for transportation use in the U.S. in 2012. These facilities are listed in Table I.A.1–1 along with our estimate of the potentially available volume.

TABLE I.A.1–1—POTENTIALLY AVAILABLE CELLULOSIC BIOFUEL PLANT VOLUMES FOR 2012

Company	Location	Fuel type	Potentially available volume (million ethanol-equivalent gallons)
DuPont Danisco Cellulosic Ethanol	Vonore, TN	Ethanol	0.25
Fiberight	Blairstown, IA	Ethanol	3.0
Fulcrum Bioenergy	McCarran, NV	Ethanol	0.5
INEOS Bio	Vero Beach, FL	Ethanol	3.0
KiOR	Houston, TX	Gasoline, Diesel	0.3
KiOR	Columbus, MS	Gasoline, Diesel	6.4
KL Energy Corp.	Upton, WY	Ethanol	1.0
Terrabon	Port Arthur, TX	Gasoline	1.0
ZeaChem	Boardman, OR	Ethanol	0.25
Total			15.7

The volumes in Table I.A.1–1 for each facility represent the volume that would be produced in 2012 based upon the owner's expected month of startup and an assumed period of production rampup to full capacity for testing and process validation purposes. However, none of the facilities we evaluated are currently producing cellulosic biofuel at the rates they project for 2012. Moreover, there are other uncertainties associated with each facility's projected volume that could result in less production volume in 2012 than the potentially available values shown in Table I.A.1–1. Therefore, we are proposing a range of volumes for cellulosic biofuel for 2012, with 15.7 million ethanol-equivalent gallons as the upper end of the range. For the lower end of the range, we believe that a volume of 3.55 million ethanol-equivalent gallons could be justified based on currently available information. This volume is based on consideration of only those facilities that are structurally complete at the time of this proposal and that anticipate commercial production of cellulosic biofuels by the end of 2011. More complete information on the progress of the industry in 2011 will be available for the final rule, and will allow us to make a more accurate projection of cellulosic biofuel volume for 2012. A more detailed discussion of these uncertainties is presented in Section II.B.

2. Advanced Biofuel and Total Renewable Fuel in 2012

The statute indicates that we may reduce the applicable volume of advanced biofuel and total renewable fuel if we determine that the projected volume of cellulosic biofuel production for 2012 falls short of the statutory volume of 500 million gallons. As shown in Table I.A.1–1, we are proposing a determination that this is the case. Therefore, we also must evaluate the need to lower the applicable volumes for the advanced biofuel and total renewable fuel.

To address the need to lower the advanced biofuel standard, we first consider whether it appears likely that the biomass-based diesel volume of 1.0 billion gallons specified in the statute can be met in 2012. As discussed in Section II.E, we believe that the 1.0 billion gallon standard can indeed be met. Since biodiesel has an Equivalence Value of 1.5, 1.0 billion physical gallons of biodiesel would provide 1.5 billion ethanol-equivalent gallons that can be counted towards the advanced biofuel standard of 2.0 billion gallons. Of the remaining 0.5 bill gallons, up to 0.016 bill gallons would be met with the proposed volume of cellulosic biofuel. Based on our analysis as described in Section II.D, it appears likely that there will be sufficient volumes of other advanced biofuels, such as imported sugarcane ethanol, additional biodiesel, or renewable diesel, such that the standard for advanced biofuel could remain at the statutory level of 2.0 billion gallons. However, uncertainty in the potential volumes of these other advanced biofuels coupled with the range of potential production volumes of cellulosic biofuel could provide a rationale for lowering the advanced biofuel standard. If we lowered the applicable volume of advanced biofuel without simultaneously lowering the applicable volume for total renewable fuel, the result would be that additional volumes of conventional renewable fuel, such as corn-starch ethanol, would be produced, effectively replacing some advanced biofuels. In today's NPRM we are proposing that neither the required 2012 volumes for advanced biofuel nor total renewable fuel be lowered below the statutory volumes. However, we request comment on whether the advanced biofuel and/or total renewable fuel volume requirements should be lowered if, as we propose, EPA lowers the required cellulosic biofuel volume from that specified in the Act.

3. Proposed Percentage Standards for 2012

The renewable fuel standards are expressed as a volume percentage, and are used by each refiner, blender or importer to determine their renewable fuel volume obligations. The applicable percentages are set so that if each regulated party meets the percentages, and if EIA projections of gasoline and diesel use are accurate, then the amount of renewable fuel, cellulosic biofuel, biomass-based diesel, and advanced

biofuel used will meet the volumes required on a nationwide basis.

To calculate the percentage standard for cellulosic biofuel for 2012, we have used a potential volume range of 3.55–15.7 million ethanol-equivalent gallons (representing 3.45–12.9 million physical gallons). For the final rule, EPA intends to pick a single value from within this range to represent the projected available volume on which the 2012 percentage standard for cellulosic biofuel will be based. We are also proposing that the applicable volumes for biomass-based diesel, advanced biofuel, and total renewable fuel for 2012 will be those specified in the statute. These volumes are shown in Table I.A.3–1.

TABLE I.A.3–1—PROPOSED VOLUMES FOR 2012

	Actual volume	Ethanol equivalent volume [a]
Cellulosic biofuel	3.45–12.9 mill gal	3.55–15.7 mill gal.
Biomass-based diesel	1.0 bill gal	1.5 bill gal.
Advanced biofuel	2.0 bill gal	2.0 bill gal.
Renewable fuel	15.2 bill gal	15.2 bill gal.

[a] Biodiesel and cellulosic diesel have equivalence values of 1.5 and 1.7 ethanol equivalent gallons respectively. As a result, ethanol-equivalent volumes are larger than actual volumes for cellulosic biofuel and biomass-based diesel.

Four separate standards are required under the RFS2 program, corresponding to the four separate volume requirements shown in Table I.A.3–1. The specific formulas we use to calculate the renewable fuel percentage standards are contained in the regulations at § 80.1405 and repeated in Section III.B.1. The percentage standards represent the ratio of renewable fuel volume to projected non-renewable gasoline and diesel volume. The projected volume of gasoline used to calculate the standards in today's proposal is provided by EIA's Short-Term Energy Outlook (STEO).[2] The projected volume of transportation diesel used to calculate the standards in today's proposal is provided by EIA's 2011 Annual Energy Outlook (early release version). For the final rule, we will use updated projections of gasoline and diesel provided by EIA.

Because DOE's 2009 analysis [3] concluded that small refineries would not be disproportionately harmed by inclusion in the RFS program, beginning in 2011, small refiners and small refineries participated in the RFS program as full regulated parties, and there was no small refiner/refinery volume adjustment to the 2011 standard as there was for the 2010 standard. However, DOE recently re-evaluated the impacts of the RFS program on small entities and concluded that some small refineries would suffer a disproportionate hardship if required to participate in the program.[4] As a result, we are required to exempt these few refineries from being obligated parties for a minimum of two years, and must also exempt their gasoline and diesel volumes from the calculation of the annual percentage standards. The proposed standards for 2012 are shown in Table I.A.3–2 and include the adjustment for exempt small refineries (which constitute about 2.5% of both gasoline and diesel pools). Detailed calculations can be found in Section III.

TABLE I.A.3–2—PROPOSED PERCENTAGE STANDARDS FOR 2012

Cellulosic biofuel	0.002 to 0.010%.
Biomass-based diesel	0.91%.
Advanced biofuel	1.21%.
Renewable fuel	9.21%.

B. Proposed 2013 Biomass-Based Diesel Volume

While section 211(o)(2)(B) specifies the volumes of biomass-based diesel (BBD) through year 2012, it directs the EPA to establish the applicable volume of BBD for years after 2012 no later than 14 months before the first year for which the applicable volume will apply. In today's action we are proposing an applicable volume of 1.28 bill gallons for biomass-based diesel (BBD) for 2013. This is the volume that was projected for 2013 in the RFS2 final rulemaking, and we are proposing it for 2013 based on consideration of the factors specified in the statute, including a consideration of biodiesel production, consumption, and infrastructure issues. As required under the statute, we also assessed the likely impact of BBD production and use in a variety of areas, including climate change, energy security, the agricultural sector, air quality, and others. Section IV provides additional discussion of our assessment of the proposed volume of 1.28 bill gallons of BBD.

C. Proposed Regulatory Changes

In today's action we are also proposing a number of changes to the RFS2 regulations. These proposed changes are intended to:

- Clarify certain provisions because we have learned that there is some confusion among some regulated parties
- Clarify the application of certain provisions to unique circumstances
- Provide greater specificity in the definition of certain terms
- Correct regulatory language that inadvertently misrepresented our intent

Today's rule also proposes to make a minor amendment to the gasoline benzene regulations regarding inclusion of transferred blendstocks in a refinery's early benzene credit generation calculations. A detailed discussion of these proposed regulatory changes is provided in Section V.

D. Petition for Reconsideration

The American Petroleum Institute (API) and the National Petrochemical and Refiners Association (NPRA) jointly submitted a Petition for Reconsideration of EPA's final rule establishing the RFS standards for 2011. The petition requests that we lower the 2011 cellulosic biofuel standard to no more than 3.94 mill gallons, lower the 2011 advanced biofuel standard in concert with the reduction in the cellulosic biofuel standard from 250 mill gallons, and reconsider the regulatory provision for delayed RINs. We are proposing to deny this petition. See Section VI for further discussion.

II. Projection of Cellulosic Volume Production and Imports for 2012

In order to project production volume of cellulosic biofuel in 2012 for use in setting the percentage standard, we collected information on individual facilities that have the potential to produce qualifying volumes for

[2] The April 2011 issue of STEO was used for today's proposal.

[3] DOE report ''EPACT 2005 Section 1501 Small Refineries Exemption Study'', (January, 2009).

[4] ''Small Refinery Exemption Study: An Investigation into Disproportionate Economic Hardship,'' U.S. Department of Energy, March 2011.

consumption as transportation fuel, heating oil, or jet fuel in the U.S. in 2012. This section describes the range of volumes that could be produced and imported in 2012 as well as some of the uncertainties associated with those volumes. For today's NPRM we have assessed the range of potentially available volumes for 2012. Despite significant advances in cellulosic biofuel production technology in recent years the production of cellulosic biofuel remains highly uncertain. While we expect that the volume we select in the final rule for use in setting the 2012 cellulosic biofuel percentage standard will be within our proposed range of volumes, we recognize the possibility that updated information at the time of the final rule could result in the final volume falling outside of the proposed range. Section III describes the conversion of our proposed range of volumes for cellulosic biofuel into a range of possible percentage standards.

While the proposed 2012 volume projections in today's NPRM were based on our own assessment of the cellulosic biofuel industry, by the time we announce the final 2012 volumes and percentage standards we will have additional information. First, in addition to comments in response to today's proposal, we will have updated and more detailed information about how the industry is progressing in 2011. Second, all registered producers and importers of renewable fuel must submit Production Outlook Reports describing their expectations for new or expanded biofuel supply for the next five years, according to § 80.1449. Finally, by October 31, 2011, the Energy Information Administration (EIA) is required by statute to provide EPA with an estimate of the volumes of transportation fuel, biomass-based diesel, and cellulosic biofuel that they project will be sold or introduced into commerce in the U.S. in 2012.

A. Statutory Requirements

The volumes of renewable fuel to be used under the RFS2 program each year (absent an adjustment or waiver by EPA) are specified in CAA 211(o)(2). These volumes for 2012 are shown in Table II.A–1.

TABLE II.A–1—REQUIRED VOLUMES IN THE CLEAN AIR ACT FOR 2012 (BILL GAL)

	Actual volume	Ethanol equivalent volume
Cellulosic biofuel	0.5[a]	0.5
Biomass-based diesel	1.0	1.5
Advanced biofuel	2.0[a]	2.0
Renewable fuel	15.2[a]	15.2

[a] These values assume that the biofuels would be ethanol. If any portion of the biofuels used to meet these applicable volumes has a volumetric energy content greater than that for ethanol, these values will be lower.

By November 30 of each year, the EPA is required under CAA 211(o) to determine and publish in the **Federal Register** the renewable fuel percentage standards for the following year. These standards are to be based in part on transportation fuel volumes estimated by the Energy Information Administration (EIA) for the following year. The calculation of the percentage standards is based on the formulas in § 80.1405(c) which express the required volumes of renewable fuel as a volume percentage of gasoline and diesel sold or introduced into commerce in the 48 contiguous states plus Hawaii.

The statute requires that if EPA determines that the projected volume of cellulosic biofuel production for the following year is less than the applicable volume shown in Table II.A–1, then EPA is to reduce the applicable volume of cellulosic biofuel to the projected volume available during that calendar year. In addition, if EPA reduces the required volume of cellulosic biofuel below the level specified in the statute, the Act also indicates that we may reduce the applicable volume of advanced biofuels and total renewable fuel by the same or a lesser volume.

As described in the final rule for the RFS2 program, we intend to examine EIA's projected volumes, comments on this proposal, production outlook reports, and other available data in making a final determination of the appropriate cellulosic biofuel volumes to require for 2012.

B. Cellulosic Biofuel Volume Assessment

The task of projecting the volume of cellulosic biofuel production for 2012 remains a difficult one. Currently there are very few, if any, facilities consistently producing cellulosic biofuel for commercial sale. Announcements of new projects and project funding, changes in project plans, project delays, and cancellations occur frequently. Biofuel producers face not only the challenge of the scale up of innovative, first-of-a-kind technology, but also the challenge of securing funding in a difficult economy. The cellulosic biofuel industry also is influenced by various tax credits and subsidies, and changes to these programs could have an impact on cellulosic biofuel production.

In order to project cellulosic biofuel production for 2012, EPA has tracked the progress of over 100 biofuel production facilities. From this list of facilities we used publically available information, as well as information provided by DOE and USDA, to make a preliminary determination of which facilities are the most likely candidates to produce cellulosic biofuel and make it commercially available in 2012. Each of these companies was investigated further in order to determine the current status of their facilities and their likely cellulosic biofuel production volumes for the coming years. Information such as the funding status of these facilities, announced construction and production ramp up periods, and annual fuel production targets were taken into account. Our projection of the range of cellulosic biofuel production in 2012 is based on this information as well as our own assessment of the likelihood of these facilities successfully producing cellulosic biofuel in the volumes indicated. A brief description of each of the companies we believe may produce cellulosic biofuel and make it commercially available in 2012 can be found below. We will continue to gather more information to help inform our decision on the final cellulosic biofuel standard for 2012, and we will specify a single volume in the final rule that will be the basis for the cellulosic biofuel percentage standard for 2012.

1. Existing Cellulosic Biofuel Facilities

The rule that established the required 2011 cellulosic biofuel volume identified five production facilities that we projected would produce cellulosic biofuel and make the fuel commercially available in 2011. Each of these production facilities are now structurally complete, however they are in various stages of biofuel production. All of these facilities have either produced some volume of cellulosic biofuel in 2011, or are on schedule to do so later in the year. Only Range Fuels, however, has completed its registration as a cellulosic biofuel production facility under the RFS2 program and as such they are currently the only facility of the five listed here currently eligible to generate cellulosic biofuel RINs. For

more background information on each of these facilities see the 2011 standards rule.[5]

DuPont Danisco Cellulosic Ethanol (DDCE) successfully started up their small demonstration facility in Vonore, Tennessee in late 2010. This facility has a maximum production capacity of 250,000 gallons of ethanol per year and uses an enzymatic hydrolysis process to convert corn cobs into ethanol. In conversations with EPA in early 2011 DDCE indicated that they had not encountered any unexpected difficulties in their production of cellulosic ethanol and were on target to meet their 2011 production goal of 150,000 gallons of cellulosic ethanol. It is likely that in 2012 cellulosic biofuel production at this facility will approach the production capacity of 250,000 gallons of cellulosic ethanol.

Fiberight uses an enzymatic hydrolysis process to convert the biogenic portion of separated municipal solid waste (MSW) into ethanol. Construction on the first stage of Fiberight's Blairstown, Iowa facility was completed in the summer of 2010. The production capacity of the first stage of this project is 2 million gallons of ethanol per year. Fiberight had planned to begin production of cellulosic biofuel from this facility in late 2010 but poor economic conditions, due in part to low cellulosic RIN values in 2010, caused them to postpone fuel production. Fiberight had also planned to begin construction on an expansion of this facility in late 2010 that would increase the production potential to 6 million gallons of ethanol per year, but were unable to secure funding to carry out the construction as planned. They have since secured funding and began construction on the expansion of their Blairstown facility in April 2011. Fiberight anticipates that they will begin fuel production in the late summer of 2012 and will ramp up production at this facility throughout 2012, producing approximately 3 million gallons of cellulosic ethanol in 2012.

KiOR continues to produce a small volume of renewable crude from agricultural residue at their demonstration facility in Houston, Texas using a technology they call Biomass Catalytic Cracking (BCC). This technology uses heat and a proprietary catalyst to convert biomass to a renewable crude with a relatively low oxygen content. This facility currently lacks the infrastructure to upgrade this renewable crude to finished transportation fuel, however KiOR plans to add this capability at this facility in late 2011. While KiOR has not yet registered under the RFS2 program, their fuel, if refined to gasoline or diesel fuel would be eligible to generate RINs. EPA currently projects a production volume of 200,000 gallons of cellulosic fuel from KiOR, which could potentially generate 300,000 RINs.

KL Energy has developed a process to convert cellulose and hemicelluloses into cellulosic sugars using a thermal-mechanical pretreatment process followed by an enzymatic hydrolysis. They had initially planned to used woody biomass as their feedstock for cellulosic biofuel production; however their production process is versatile enough to allow for a wide variety of cellulosic feedstocks to be used. In August 2010 KL Energy announced a joint development agreement with Petrobras America Inc. As part of the agreement Petrobras will invest $11 million to modify KL Energy's facility in Upton, Wyoming to allow it to process bagasse and other waste products. These modifications are expected to be completed in 2011, and fuel production is likely to begin soon after. If successful, Petrobras and KL Energy plan to work together to integrate the technology into currently existing ethanol production facilities in Brazil. KL Energy has also indentified several sites in the United States for possible future expansion. EPA currently projects that KL Energy could produce up to 1 million gallons of cellulosic ethanol in 2012 in the United States.

Range Fuels began production of methanol at their Soperton, Georgia facility in the third quarter of 2010. This facility uses a thermochemical technology to produce syngas (consisting of mostly hydrogen and carbon monoxide) from a woody biomass feedstock. The syngas is then converted into fuel with the aid of a chemical catalyst developed by Range. Range has developed the capability to produce both methanol and ethanol, depending on the catalyst used. In January 2011, after producing a small volume of ethanol from this facility and proving this capability, Range Fuels shut down the Soperton facility in order to work through technical difficulties they had been experiencing. No timeline has been given for the restart of this facility. EPA will continue to gather information and monitor progress at the Soperton facility. At this time, however, since no timeline has been provided for production from this facility, we are not projecting any volume from this facility in 2012.

2. Potential New Facilities in 2012

EPA is also aware of five new cellulosic biofuel production facilities that are currently planning to begin commercial production at some point in 2012. These facilities are at various stages in the construction process, and as such have various degrees of uncertainty associated with any projected 2012 commercial production. While it is possible that several of these facilities will not begin production of cellulosic biofuels until 2013, they are nevertheless considered here since some commercial volumes can potentially be produced in 2012.

Fulcrum Bioenergy is planning to build a facility capable of producing 10.5 million gallons of cellulosic ethanol and 16 megawatts of renewable electricity per year. They have developed a thermochemical technology to produce ethanol from separated MSW via syngas using a chemical catalyst. In November 2010 Fulcrum announced that they had received a term sheet for a $80 million loan guarantee from DOE and were entering into the final phase of the loan guarantee program. Prior to that Fulcrum had announced that they had signed long term feedstock supply contracts for this facility as well as engineering, procurement, and construction contracts. In January 2011 Fulcrum announced they had closed on a $75 million Series C financing that would provide the remaining necessary capital for the construction of their first commercial production facility pending the closing of their DOE loan guarantee. They announced that they are now planning to begin construction in the second quarter of 2011 and complete the facility by late 2012. EPA currently projects a potential production volume of up to 0.5 million gallons of cellulosic ethanol from this facility in 2012.

INEOS Bio has developed a process for producing cellulosic ethanol by first gasifying feedstock material into a syngas and then using naturally occurring bacteria to ferment the syngas into ethanol. In January 2011 USDA announced a $75 million loan guarantee for the construction of INEOS Bio's first commercial facility to be built in Vero Beach, Florida. This facility will be capable of producing 8 million gallons of cellulosic biofuel as well as 6 megawatts of renewable electricity from a variety of feedstocks including yard, agricultural, and wood waste, as well as separated MSW. On February 9, 2011 INEOS Bio broke ground on this facility. INEOS Bio expects to complete construction on this facility in April 2012 and plans to begin commercial production of cellulosic ethanol soon

[5] 75 FR 76790, December 9, 2010.

after construction is complete. EPA currently projects a potential production volume of up to 3 million gallons of cellulosic ethanol from this facility in 2012.

After successful operation of their demonstration plant in Houston, Texas KiOR is planning to begin construction on their first commercial scale facility in early 2011. This facility, located in Columbus, Mississippi, will convert biomass to a low oxygen biocrude using a process KiOR calls Biomass Catalytic Cracking (BCC). BCC uses a catalyst developed by KiOR in a process similar to Fluid Catalytic Cracking currently used in the petroleum industry. KiOR's Columbus facility will also be capable of upgrading this biocrude into finished gasoline and diesel as well as a small quantity of fuel oil. KiOR plans to begin production from this facility sometime in the first half of 2012. KiOR has also announced plans to construct several more commercial scale biofuel production facilities in Mississippi and across the southeastern United States. However, it is unlikely any of these facilities will begin production of biofuel in 2012. Given this timeline EPA currently projects a potential production of up to 4.0 million gallons of gasoline and diesel (6.4 million ethanol equivalent gallons) from the Columbus facility in 2012.

Terrabon completed construction of a small demonstration scale facility for the conversion of MSW and other waste materials into gasoline in 2010 and is planning to begin production at their first commercial scale facility in 2012. Terrabon utilizes a unique production process that can be used to produce gasoline, diesel, or jet fuel. Feedstock is first fermented into carboxylic acids by a variety of micro organisms. These carboxylic acids are then neutralized to form carboxylate salts that are dewatered, dried, and thermally converted to ketones. Finally, the ketones are hydrogenated to form alcohols which can then be refined into gasoline, diesel, or jet fuel. While currently no pathway exists for the generation of RINs representing cellulosic gasoline in the RFS2 regulations, EPA is planning to initiate a rulemaking to create such a pathway in our regulations. This would allow for facilities such as Terrabon and others who may produce cellulosic gasoline in the future to register and generate RINs under the RFS2 program (provided they meet the fuel registration, renewable biomass, and other requirements of the program as well). EPA currently projects the production of up to 0.7 million gallons (1.0 million ethanol equivalent gallons) of cellulosic gasoline in 2012 from Terrabon's first commercial facility.

ZeaChem has begun construction on a small demonstration scale facility in Boardman, Oregon capable of producing 250,000 gallons of cellulosic ethanol per year. Their production process uses a combination of biochemical and thermochemical technologies to produce ethanol and other renewable chemicals from cellulosic materials. The feedstock is first fractionated into two separate streams containing cellulosic sugars and lignin. The cellulosic sugars are fermented into ethyl acetate using a naturally occurring acetogen, which can then be hydrogenated into ethanol. The hydrogen necessary for this process is produced by gasifying the lignin stream from the cellulosic biomass. ZeaChem's process is flexible and is capable of producing a wide range of renewable chemical and fuel molecules in addition to ethanol. ZeaChem plans to begin production of cellulosic ethanol from their facility in Boardman, Oregon in late 2011, and EPA currently projects a potential production volume of up to 0.25 million gallons of ethanol from this facility in 2012.

Another potential source of cellulosic biofuel in 2012 is a technology being developed by EdeniQ. EdeniQ is developing a suite of enzymes capable of breaking down cellulose into simple sugars that can then be fermented into ethanol. Rather than build their own production facilities EdeniQ plans to license their enzymes to existing corn ethanol facilities. Such licensing would be accompanied by the Cellunator, an advanced milling device they have developed to reduce the particle size of corn kernels to enable greater conversion of starch to ethanol as well as the conversion of cellulose to simple sugars. EdeniQ claims that their technology would allow corn ethanol facilities to increase ethanol production by 1–2% by converting the cellulosic portion of the corn kernel into ethanol. They are also working to increase the effectiveness of their enzymes in order to enable ethanol production increases of 3–4% from the cellulose in the corn kernel in the future. EdeniQ plans to begin commercial trials of their technology in the second half of 2011. This technology has the potential to be implemented rapidly and produce significant amounts of cellulosic ethanol in 2012 as it requires relatively small capital additions to already existing corn ethanol facilities. While this technology is promising, there is currently no pathway in the RFS2 regulations for the generation of cellulosic biofuel RINs using the cellulosic portion of the corn kernel as a feedstock. Moreover, EdeniQ has not announced any agreements with corn ethanol producers to install this technology to enable the production of cellulosic ethanol. For these reasons, EPA has not included any cellulosic ethanol production from EdeniQ's technology in our 2012 projections. We will continue to monitor their process in the coming months for signs of progress towards commercialization of their technology and will consider adding production volumes from EdeniQ into our final projections if appropriate.

In addition to the facilities mentioned above, EPA is also aware of three companies planning to begin the production of cellulosic biofuels in early 2013. Coskata, Enerkem, and Poet are planning on completing construction on their first commercial scale cellulosic biofuel facilities in late 2012 or early 2013 and producing commercial volumes of biofuels in 2013. While it is possible that construction of any of these facilities could be completed ahead of schedule and a small volume of fuel could be produced in 2012, history in this industry suggests that this is unlikely. EPA has therefore not projected that any volume of cellulosic biofuel will be produced from these facilities in 2012. These facilities, along with several other commercial cellulosic biofuel facilities planning to begin production in 2013, notably the first commercial scale facilities from Abengoa and Mascoma, indicate that the potential exists for the rapid expansion of production volumes in future years.

3. Imports of Cellulosic Biofuel

While domestically produced cellulosic biofuels are the most likely source of cellulosic biofuel available in the United States, producers and/or importers of cellulosic biofuel produced in other countries may also generate RINs and participate in the RFS2 program. While the RFS2 program does provide a financial incentive for companies to import cellulosic biofuels into the United States, the combination of local demand, financial incentives from other governments, and transportation costs for the cellulosic biofuel has resulted in no cellulosic biofuel being imported to the United States thus far. EPA believes this situation is likely to continue in the near future. Additionally, the majority of internationally based cellulosic biofuel facilities that currently exist or plan to complete construction by the end of 2012 are small research and development or pilot facilities not designed for the commercial production of fuel.

Two notable exceptions, both located in Canada, are Enerkem and Iogen. Enerkem has a currently existing commercial production facility in Westbury, Quebec and is expecting to complete construction on a second facility in Edmonton, Alberta in late 2011. Iogen has a small demonstration facility in Ottawa and is currently exploring the possibility of building their first commercial facility near Prince Albert, Saskatchewan. The large expected production volumes and relatively small distance this fuel would have to be transported to reach the United States make these facilities the most likely candidates to import cellulosic biofuel into the United States. In conversations with EPA, however, both companies indicated that they had no current intentions of importing fuel from their Canadian production facilities into the United States. On September 1, 2010 the government of Canada finalized regulations requiring all gasoline sold in Canada to have a renewable content of 5% and all diesel fuel and heating oil to have a renewable content of 2%. These regulations will further increase local demand for any cellulosic biofuel produced from these two facilities and decrease the likelihood of any of this fuel being exported to the United States. For these reasons we have not included any cellulosic biofuel production from foreign facilities in our projections of cellulosic biofuel availability in 2012.

4. Summary of Volume Projections

The information EPA has gathered on the potential cellulosic biofuel producers in 2012, described above, allows us to identify potential volumes that could be achieved by each facility in 2012. This information is summarized in Table II.B.4–1 below.

TABLE II.B.4–1—CELLULOSIC BIOFUEL 2012 POTENTIALLY AVAILABLE VOLUME

Company name	Location	Feedstock	Fuel	Capacity (MGY)	Earliest production	2012 Potentially available volume (MG)	Ethanol equivalent gallons (MG)
DuPont Danisco Cellulosic Ethanol.	Vonore, TN	Corn Stover	Ethanol	0.25	Online	0.25	0.25
Fiberight[a]	Blairstown, IA	MSW	Ethanol	6	Online	3.0	3.0
Fulcrum Bioenergy	McCarran, NV	MSW	Ethanol	10.5	Late 2012	0.5	0.5
INEOS Bio	Vero Beach, FL.	Ag Residue, MSW.	Ethanol	8	May 2012	3.0	3.0
KiOR	Houston, TX	Ag Residue	Gasoline, Diesel.	0.2	Online	0.2	0.3
KiOR	Columbus, MS	Pulp Wood	Gasoline, Diesel.	10	Mid 2012	4.0	6.4
KL Energy	Upton, WY	Wood Waste	Ethanol	1.5	Online	1.0	1.0
Terrabon	Port Arthur, TX	MSW	Gasoline	1.3	2012	0.7	1.0
ZeaChem	Boardman, OR	Planted Trees	Ethanol	0.25	2011	0.25	0.25
Total						12.9	15.7

[a] Based on company estimate.

The potentially available volume of 12.9 million gallons of cellulosic biofuel, or 15.7 million ethanol equivalent gallons, represents the higher end of the range of cellulosic biofuel volumes that EPA believes at this time could reasonably be expected to be produced or imported and made available for use as transportation fuel, heating oil, or jet fuel in 2012. It incorporates reductions from the annual production capacity of each facility based on when the facilities anticipate fuel production will begin and assumptions regarding a ramp up period to full production. Other factors such as the funding status, risks associated with new technologies, and the current status of project construction were considered for each facility.

For the lower end of the range, we believe that a volume of 3.55 million ethanol-equivalent gallons could be justified based on currently available information. This volume is based on a consideration of only those facilities that are structurally complete at the time of this proposal and which have indicated that they anticipate commercial production of cellulosic biofuels by the end of 2011. The production facilities meeting these criteria include Dupont Danisco Cellulosic Ethanol, Fiberight (2 million gallon per year first stage), KiOR (Houston, TX facility), and KL Energy. While there is still some uncertainty regarding the projected volumes from these facilities, by completing construction and anticipating fuel production by the end of 2011 there is less uncertainty associated with these facilities than for the others listed as potential cellulosic biofuel producers for 2012.

Therefore, in today's NPRM we are proposing a range of values, from 3.55 million ethanol equivalent gallons to 15.7 million ethanol equivalent gallons for the 2012 cellulosic biofuel standard. The low end of the range represents a projection of higher confidence and less uncertainty, with greater emphasis placed on established/demonstrated production capacity. The high end of the range represents a projection of less confidence and higher uncertainty, with greater emphasis placed on productions plans. As time progresses and we are able to track whether or not the cellulosic biofuels producers are able to meet the construction and ramp up schedules they have presented, and as we consider public comments on this proposal and the EIA estimated 2012 volume of cellulosic biofuel production that they are required to provide to us by October 31 of this year, we will have a better idea of the appropriate volume of fuel that we can reasonably expect to be produced and made commercially available in 2012. Congress did not specify the degree of certainty that should be reflected in our projections of cellulosic biofuel volumes. We expect that the volume that we project in the final rule for 2012 will represent a reasonable balance of the degree of uncertainty or confidence in the projected production volume and the risk of unnecessarily reducing the applicable volumes set forth in the Act.

Although we are proposing a range of values from 3.55 to 15.7 million ethanol equivalent gallons based on information available at the time of this NPRM, we also request comment on alternative

options for setting the 2012 cellulosic biofuel volume requirement at a higher level. It is possible that a cellulosic biofuel volume requirement which reduces less of the 500 mill gallon applicable volume from the statute could spur additional near and longer-term cellulosic biofuel production capacity. We recognize that any method must take into account the uncertainty in estimating future production potential. Nevertheless, the purpose of setting a mandate is to stimulate more rapid increases in the rate of production than the cellulosic biofuel industry would likely experience in the absence of the mandate. We request comment on whether a higher volume requirement for cellulosic biofuel than we are proposing today would provide additional stimulation of production volumes of cellulosic biofuel, and the basis for setting such a higher volume requirement.

C. Potential Limitations in 2012

In addition to production capacity, a variety of other factors have the potential to limit the amount of cellulosic biofuel that can be produced and used in the U.S. For instance, there may be limitations in the availability of qualifying cellulosic feedstocks at reasonable prices. Most of the cellulosic biofuel producers that we anticipate will produce commercial volumes in 2012 have indicated that they will use some type of cellulosic waste, such as separated municipal solid waste, wastes from the forestry industry, and agricultural residues. Based on the analyses of cellulosic feedstock availability in the RFS2 final rule, we believe that there will be significantly more than enough sources of these feedstocks for 2012. For producers that intend to use dedicated energy crops, we do not believe that the amount of qualifying cropland for renewable fuel production under RFS2 will limit production in 2012. We plan to continue to evaluate the availability of valid feedstocks in future years as the required volumes of cellulosic biofuel increase.

We anticipate that the relatively small incremental increase in total biofuel volumes in 2012 that would be attributed to cellulosic biofuels can be accommodated by the fuel distribution system. The RFS2 final rule analysis concluded that biofuel distribution challenges as the RFS2 volume requirements ramp up could be overcome in a timely fashion. In the RFS2 final rule analysis, we assumed that most cellulosic biofuel production facilities would be constructed in the nation's heartland similar to corn ethanol production facilities. Based on more recent information, we now believe that cellulosic production facilities will be more geographically dispersed. This is the case for the specific cellulosic biofuels production facilities that we expect would produce fuel in 2012. The greater geographic dispersion would tend to lessen the distance to transport biofuels to petroleum terminals, thereby reducing the overall distribution burden. We believe that the cellulosic biofuel volumes that would be produced in 2012 could be accommodated by fuel retailers without necessitating the installation of new refueling infrastructure such as that which would be needed for E85.

D. Advanced Biofuel and Total Renewable Fuel in 2012

Under CAA 211(o)(7)(D)(i), EPA has the discretion to reduce the applicable volumes of advanced biofuel and total renewable fuel in the event that the projected volume of cellulosic biofuel production is determined to be below the applicable volume specified in the statute. As described in Section II.B above, we are indeed projecting the volume of cellulosic biofuel production for 2012 at significantly below the statutory applicable volume of 500 million gallons. Because cellulosic biofuel is used to satisfy the cellulosic biofuel standard, the advanced biofuel standard, and the total renewable fuel standard, any reductions in the applicable volume of cellulosic biofuel will also affect the means through which obligated parties comply with the advanced biofuel standard and the total renewable fuel standard. Therefore, we have considered whether and to what degree to propose lowering the advanced biofuel and total renewable fuel applicable volumes for 2012.

If the required volume of cellulosic biofuel for a given year is less than the volume specified in the statute, it is important to evaluate whether there would be sufficient volume of advanced biofuels to satisfy the applicable volume of advanced biofuel volume set forth in the statute. Even with a reduced volume of cellulosic biofuel, other advanced biofuels, such as biomass-based diesel, sugarcane ethanol, or other biofuels, may be available in sufficient volumes to make up for the shortfall in cellulosic biofuel. We believe that it would be consistent with the energy security and greenhouse gas reduction goals of EISA to not reduce the applicable volume of advanced biofuel set forth in the statute if there are sufficient volumes of advanced biofuels available, even if those volumes do not include the amount of cellulosic biofuel that Congress may have desired. Our authority to lower the advanced biofuel and/or total renewable fuel applicable volumes is discretionary, and in general we believe that actions to lower these volumes should only be taken if insufficient volumes of qualifying biofuel can be made available, based on such circumstances as insufficient production capacity, insufficient feedstocks, competing markets, constrained infrastructure, or the like. As discussed below, we project that sufficient volumes of advanced biofuel can be made available in 2012 such that the 2.0 bill gallon advanced biofuel requirement need not be reduced.

If we were to maintain the advanced biofuel, biomass-based diesel, and total renewable fuel volume requirements at the levels specified in the statute, while also lowering the cellulosic biofuel standard to 3.55–15.7 million ethanol-equivalent gallons, then 1,504–1,516 million gallons of the 2.0 billion gallon advanced biofuel mandate would be satisfied automatically through the satisfaction of the cellulosic and biomass based diesel standards. An additional 484–496 million ethanol-equivalent gallons of additional advanced biofuels would be needed. See Table II.D–1.

TABLE II.D–1—PROJECTED FUEL MIX IF ONLY CELLULOSIC BIOFUEL VOLUME IS ADJUSTED IN 2012

[Mill gallons]

	Ethanol-equivalent volume	Physical volume
Total renewable fuel	15,200	14,536–14,701
Conventional renewable fuel[a]	13,200	13,200
Total advanced biofuel	2,000	1,336–1,501
Cellulosic biofuel	3.55–15.7	3.45–12.9
Biomass-based diesel	1,500	1,000

TABLE II.D–1—PROJECTED FUEL MIX IF ONLY CELLULOSIC BIOFUEL VOLUME IS ADJUSTED IN 2012—Continued

[Mill gallons]

	Ethanol-equivalent volume	Physical volume
Other advanced biofuel [b]	484–496	[c] 323–496

[a] Predominantly corn-starch ethanol.
[b] Rounded to nearest million gallons for simplicity.
[c] Physical volume is a range because other advanced biofuel may be ethanol, biodiesel, or some combination of the two.

The most likely sources of additional advanced biofuel would be imported sugarcane ethanol and biomass-based diesel, though there may also be some volumes of other types of advanced biofuel available as discussed below. To determine if there are likely to be sufficient volumes of these biofuels to meet the need for 484–496 million gallons of other advanced biofuel, we first examined historical data on ethanol imports and projections from EIA and USDA for 2012. Brazilian imports have made up a sizeable portion of total ethanol imported into the U.S. in the past, and these volumes were predominantly produced from sugarcane. Ethanol imports averaged about 380 million gallons per year over the last five years, and reached an all-time high of 730 million gallons in 2006.[6] These historical import volumes demonstrate that Brazil has significant export potential under the appropriate economic circumstances. However, ethanol imports were significantly lower in 2010 than in previous years. This decline in imports may be related to the cessation of the duty drawback that became effective on October 1, 2008, or to changes in world sugar prices.[7] However, Brazil continues to be second worldwide in the production of ethanol, producing a total of 6.9 bill gallons in 2009.[8] By establishing an increased U.S. demand for 484–496 million gallons of other advanced biofuel in 2012, we would be re-establishing an export market for Brazillian sugarcane ethanol that could compete with the use of sugarcane to produce sugar, and thus it can once again be economical for Brazilian producers to export higher volumes of sugarcane ethanol to the U.S. Moreover, California's Low Carbon Fuel Standard went into effect in 2010, and may result in some refiners importing additional volumes of sugarcane ethanol from Brazil into California in 2012. These same volumes could count towards the Federal RFS2 program as well.

Future projections from other sources also suggest that a large portion of the 484–496 million gallons of advanced biofuel needed could be supplied by imported sugarcane ethanol. For instance, in the Early Release of its Annual Energy Outlook 2011, EIA projects ethanol imports of approximately 400 million gallons for 2012.[9] Similarly, the university-based Food and Agricultural Policy Research Institute (FAPRI) released its 2010 U.S. and World Agricultural Outlook report in which it projects 2012 ethanol imports of 317 million gallons.[10] The volumes of imported ethanol projected by both of these sources is very likely to be sugarcane ethanol, since this is by far the predominant form of imported ethanol to date and is expected to continue to be so for the foreseeable future.

We also examined the potential for excess biodiesel to help meet the need for 484–496 million gallons of advanced biofuel. The applicable volume of biomass based diesel established in the statute for 2012 is 1.0 billion gallons (which corresponds to 1500 ethanol-equivalent gallons). As discussed more fully in Section II.E below, we believe that the biodiesel industry has the potential for producing volumes above 1.0 billion gallons if demand for such volume exists, potentially up to an additional several hundred million gallons.

Another potential source of advanced biofuels is electricity generated from renewable biomass that is used as a transportation fuel. EIA data indicates that in 2009, the most recent year for which data is available, 35.6 million megawatt-hours of electricity was generated from wood and wood derived fuels, and an additional 18.4 million megawatt-hours was generated from other biomass in the United States.[11] If all of this electricity were used as a transportation fuel it would represent nearly 2.4 billion ethanol equivalent gallons of advanced biofuel. While not all the feedstocks used to generate the electricity included in these totals would meet the RFS2's renewable biomass definition this remains a very large potential source of advanced biofuel RINs.

In addition to verifying that the feedstocks used to generate renewable electricity meet the renewable biomass definition producers would also be required to document that the electricity they produce is used as a transportation fuel in order to be eligible to generate RINs. Until recently there were very few vehicles capable of using electricity as a transportation fuel. Expected increases in the number of vehicles with this capability, such as electric vehicles and plug in hybrids, has the potential to dramatically increase the degree to which electricity is able to be used as a transportation fuel. Verifying that the renewable electricity produced is used as a transportation fuel would still remain a challenge, however the potential for capitalizing on the RIN value, without the necessity of making major changes in the areas of fuel production, distribution, or end use, may be a large enough incentive to overcome this challenge. While the many uncertainties associated with the generation of advanced biofuel RINs from renewable electricity prevent EPA from making a quantitative projection for 2012, such RINs may nevertheless play a role in meeting the advanced biofuel standard.

Finally, there are also other potential sources of advanced biofuels. For instance, several companies are making progress on opening advanced biofuel production facilities as early as 2012. Gevo purchased a dry mill corn ethanol plant in Minnesota and is in the process of converting it to produce up to 10 million gallons of biobutanol per year. Solazyme produced over 150,000

[6] ''Monthly U.S. Imports of Fuel Ethanol,'' EIA, released 3/30/2011.

[7] Lundell, Drake, ''Brazilian Ethanol Export Surge to End; U.S. Customs Loophole Closed Oct. 1,'' Ethanol and Biodiesel News, Issue 45, November 4, 2008.

[8] Portal Brasil, Energy Matrix for Ethanol, *http://www.brasil.gov.br/sobre/economy/energy-matrix/ethanol/br_model1?set_language=en.*

[9] Table 11 of AEO2011 Early Release, Report Number DOE/EIA–0383ER(2011). *http://www.eia.doe.gov/forecasts/aeo/tables_ref.cfm.*

[10] Table ''Ethanol trade'', World Biofuels, FAPRI 2010 U.S. and World Agricultural Outlook. *http://www.fapri.iastate.edu/outlook/2010/.*

[11] Table ES1 of Electric Power Industry 2009: Year in Review. Available online: *http://www.eia.doe.gov/cneaf/electricity/epa/epayir.pdf.*

gallons of algal oil in 2010–2011 that was then converted to jet fuel by UOP and is planning for increased production in 2012. LS9 purchased a fermentation facility in Florida that will enable them to produce 50,000 to 100,000 gallons of diesel fuel per year and plan to have this facility full operational by 2012. Several other companies are also planning on producing advanced biofuels using a variety of feedstocks, including sugars, sweet sorghum, waste cooking oil or restaurant grease, algal oils, and many others that have the potential to achieve commercial production by the end of 2012. Insofar as such fuels are registered under 40 CFR part 79 and meet all the requirements for RIN generation under the RFS program, they could contribute to compliance with the advanced biofuels standard in 2012.

By adding up the potential volumes of imported sugarcane ethanol, excess biodiesel, and other sources of advanced biofuel, there are likely to be sufficient volumes of advanced biofuels to meet the need for 484–496 million gallons. As a result, we do not believe that the advanced biofuel standard need be lowered below the 2.0 billion gallon level specified in the Act. Thus, we are not proposing to reduce the applicable volume of advanced biofuel for 2012. In addition, since we are not proposing to lower the advanced biofuel standard for 2012, we do not believe that there is a need to lower the total renewable fuel standard. Nevertheless, since there is some uncertainty in both the availability of advanced biofuels in 2012 and the market conditions which would support their availability, we request comment on whether the advanced biofuel and total renewable fuel standards should be lowered, and the basis for such a reduction in the applicable volumes from the statute.

E. Biomass-Based Diesel in 2012

As described more fully in Section II.D above, we must determine whether the required volumes of advanced biofuel and/or total renewable fuel should be reduced if we reduce the required volume of cellulosic biofuel. The amount of biomass-based diesel that we project will be available directly affected our proposed consideration for this NPRM of adjustments to the volumetric requirements for advanced biofuel and total renewable fuel.

To evaluate whether the applicable volume of 1.0 bill gallons for biomass-based diesel is achievable in 2012, and whether even greater volumes could be produced, we examined recent production rates, production capacity of the industry, and projections for future production. Although there are a variety of potential fuel types that can qualify as biomass-based diesel, biodiesel is by far the predominant type. Thus, our assessment focused primarily on biodiesel, though we also investigated potential volumes of renewable diesel.

According to the Energy Information Administration, biodiesel production in 2010 reached 311 mill gallons.[12] However, we believe that this value underestimates the volume of biomass-based diesel actually produced in 2010 since it is based primarily on feedstocks used in the production of biodiesel. Based on information from the EPA-Moderated Transaction System (EMTS) and RIN generation reports submitted to EPA from producers, we estimate that the volume of biomass-based diesel produced in 2010 was about 380 mill gallons. While this is higher than the 345 mill gallons that we projected would be needed for compliance with the 2010 biomass-based diesel standard,[13] there were also exports of biodiesel that would have reduced the availability of RINs for compliance purposes. To the degree that the volume of biomass-based diesel fell short of the 345 mill gallons that we estimated would be needed, obligated parties would have needed to carry a deficit into 2011.

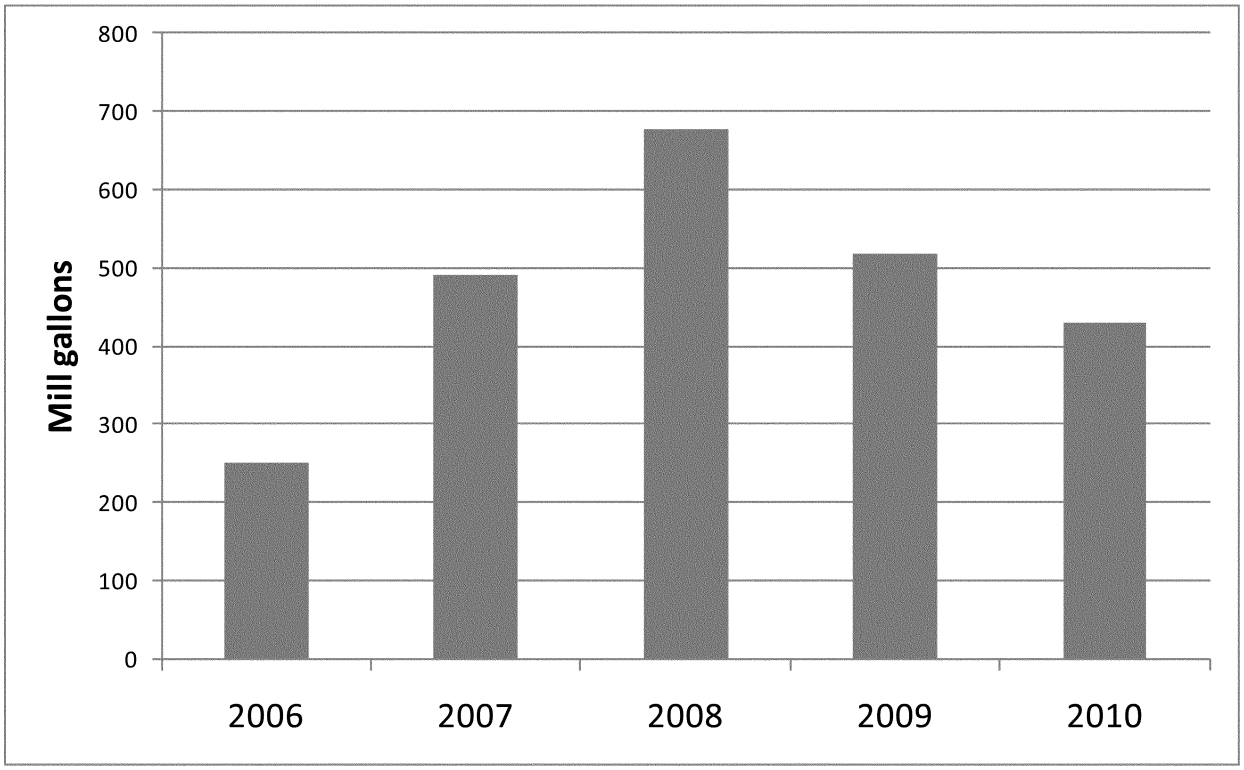
However, many of the activities of the biodiesel industry in 2010 were due to unique circumstances that may not apply in 2012. It is likely that a contributing factor to the lower production volumes in 2010 was the expiration of the biodiesel tax credit at the end of 2009, and the uncertainty throughout 2010 regarding whether and when it might be reinstated. This situation may have led to hesitation on the part of obligated parties for establishing binding contracts for purchases of biodiesel.

Historical production of biodiesel has varied significantly depending on market demand as shown in Figure II.E–1 below.

[12] Monthly Energy Review, May 2011. *http://www.eia.doe.gov/emeu/mer/pdf/pages/sec10_8.pdf.*

[13] See question 6.7 in EPA's ''Questions and Answers on Changes to the Renewable Fuel Standard Program (RFS2)'', *http://www.epa.gov/otaq/fuels/renewablefuels/compliancehelp/rfs2-aq.htm#6.*

Figure II.E-1
Historical Domestic Production of Biodiesel



Source: EIA Annual Energy Outlook 2011 Early Release

The fact that the U.S. biodiesel industry has produced higher volumes when demand for it existed suggests that the industry has the capability to produce greater volumes than it did in 2010 under the appropriate circumstances. For instance, information from the EPA-Moderated Transaction System (EMTS) indicates that monthly production volumes of biodiesel have increased steadily in the first few months of 2011, reaching 74 mill gallons by April.[14] This trend demonstrates that the industry is responding to the higher demand created by the 800 mill gal biomass-based diesel volume requirement under the RFS program in 2011.

The biodiesel industry's production potential supports the view that it can more than satisfy the applicable volume of biomass-based diesel specified in the statute for 2012. As of January, 2011, the aggregate production capacity of biodiesel plants in the U.S. was estimated at 2.8 billion gallons per year across approximately 170 facilities. [15] Of this aggregate production capacity, at least 1.8 billion gallons of production capacity has been registered under the RFS2 program.[16] Although some facilities are currently idle, and ramping up production will require some time and potentially some reinvestment, based on feedback from industry we nevertheless believe that it can occur in time to meet a production goal of 1.0 billion gallons in 2012.

Projections of production for 2012 strongly suggest that 1.0 bill gallons of biomass-based diesel is achievable. For instance, the U.S. Department of Agriculture projects that over 400 mill gallons of biodiesel will be produced from soybean oil in 2012, and adds that ''Although some other first-use vegetable oils are also used to produce biodiesel, most of the remaining biodiesel production needed to reach the 1-billion-gallon mandate of the 2007 Energy Act uses animal fats or recycled vegetable oil as the feedstock.'' [17] This projection is further supported by the Agricultural Marketing Resource Center at Iowa State University, which projects that soy-oil biodiesel production may reach as high as 470 mill gallons and that non-soy biodiesel may reach as high as 460 mill gallons.[18] Both of these sources project more growth in non-soy oil feedstock volumes than soy oil. Finally, EIA projects that the total volume of biodiesel in 2012 would be about 840 mill gallons.[19] While all of these projections suggest that volumes of biodiesel may fall short of 1.0 bill gallons, we believe that sufficient additional volumes of renewable diesel can also be available to meet the 1.0 bill gal requirement for biomass-based diesel. For instance, Dynamic Fuels has constructed one plant in Geismar, Louisiana that started production of renewable diesel in November, 2010.[20] In the final RFS2 rule, we projected that annual renewable diesel production could reach 150 mill gallons based on feedstock availability. Since renewable diesel can also be produced at existing refineries with little or no modification to processing equipment, we believe

[14] 2011 RIN Generation and Renewable Fuel Volume Production, *http://www.epa.gov/otaq/fuels/renewablefuels/compliancehelp/rfsdata.htm.*

[15] Figures taken from National Biodiesel Board's Member Plant List as of January 27, 2011. *http://biodiesel.org/buyingbiodiesel/plants/showall.aspx.*

[16] Comments from National Biodiesel Board on the July 20, 2010 NPRM proposing the RFS standards for 2011. See Docket EPA–HQ–OAR–2010–0133.

[17] USDA Agricultural Projections to 2020, Long-Term Projections Report OCE–2011–1, February 2011. See Table 24. Assumes 7.68 lb/gal.

[18] Soybean Oil and Biodiesel Usage Projections and Balance Sheet, updated 2/18/2011. *http://www.extension.iastate.edu/agdm/crops/outlook/soybeanbalancesheet.pdf.* Values cited are for the ''High'' case.

[19] Short-Term Energy Outlook, February 2011. Table 8.

[20] Project status updates are available via the Syntroleum Web site, *http://dynamicfuelsllc.com/wp-news/.*

that 150 mill gallons of renewable diesel could be produced in 2012. Thus, we currently believe that the total production volume of both biodiesel and renewable diesel can reach 1.0 bill gal in 2012.

We also believe that there will be sufficient sources of qualifying renewable biomass to more than meet the needs of the biodiesel industry in 2012. The largest sources of feedstock for biodiesel in 2012 are expected to be soy oil, canola oil, rendered fats, and potentially some corn oil extracted during production of fuel ethanol, as this technology continues to proliferate. Moreover, information we received from a large rendering company suggests that there will be adequate fats and greases feedstocks to supply biofuels production as well as other historical uses.[21]

Based on our review of the production potential of the biodiesel industry, and projections from several sources, and our assessment of available feedstocks, we believe that the 1.0 billion gallons needed to satisfy the applicable volume of biomass-based diesel specified in the statute can be produced in 2012. Therefore, we are not proposing to lower the biomass-based diesel standard of 1.0 billion gallons that is specified in the Act. Moreover, based on production capacity and availability of feedstocks, we believe that volumes of biomass-based diesel in excess of 1.0 bill gallons could be made available given sufficient market demand.

III. Proposed Percentage Standards for 2012

A. Background

The renewable fuel standards are expressed as a volume percentage, and are used by each refiner, blender or importer to determine their renewable volume obligations (RVO). Since there are four separate standards under the RFS2 program, there are likewise four separate RVOs applicable to each obligated party. Each standard applies to the sum of all gasoline and diesel produced or imported. The applicable percentage standards are set so that if each regulated party meets the percentages, then the amount of renewable fuel, cellulosic biofuel, biomass-based diesel, and advanced biofuel used will meet the volumes required on a nationwide basis.

As discussed in Section II.B.4, we are proposing a required volume of cellulosic biofuel for 2012 in the range of 3.45–12.9 million gallons (3.55–15.7 million ethanol equivalent gallons). The single volume we select for the final rule will be used as the basis for setting the percentage standard for cellulosic biofuel for 2012. We are also proposing that the advanced biofuel and total renewable fuel volumes would not be reduced below the applicable volumes specified in the statute. The proposed 2012 volumes used to determine the four percentage standards are shown in Table III.A–1.

TABLE III.A–1—PROPOSED VOLUMES FOR 2012

	Actual volume	Ethanol equivalent volume
Cellulosic biofuel	3.45–12.9 mill gal	3.55–15.7 mill gal.
Biomass-based diesel	1.0 bill gal	1.5 bill gal.
Advanced biofuel	2.0 bill gal	2.0 bill gal.
Renewable fuel	15.2 bill gal	15.2 bill gal.

The formulas used in deriving the annual renewable fuel standards are based in part on estimates of the volumes of gasoline and diesel fuel, for both highway and nonroad uses, that will be used in the year in which the standards will apply. Producers of other transportation fuels, such as natural gas, propane, and electricity from fossil fuels, are not subject to the standards, and volumes of such fuels are not used in calculating the annual standards. Since the standards apply to producers and importers of gasoline and diesel, these are the transportation fuels used to set the standards, and then again to determine the annual volume obligations of an individual gasoline or diesel producer or importer.

B. Calculation of Standards

1. How are the standards calculated?

The following formulas are used to calculate the four percentage standards applicable to producers and importers of gasoline and diesel (see § 80.1405):

[21] See **Federal Register** v. 74 n. 99 p. 24903. Comments are available in docket EPA–HQ–OAR–2005–0161.

$$Std_{CB,i} = 100\% \times \frac{RFV_{CB,i}}{(G_i - RG_i) + (GS_i - RGS_i) - GE_i + (D_i - RD_i) + (DS_i - RDS_i) - DE_i}$$

$$Std_{BBD,i} = 100\% \times \frac{RFV_{BBD,i} \times 1.5}{(G_i - RG_i) + (GS_i - RGS_i) - GE_i + (D_i - RD_i) + (DS_i - RDS_i) - DE_i}$$

$$Std_{AB,i} = 100\% \times \frac{RFV_{AB,i}}{(G_i - RG_i) + (GS_i - RGS_i) - GE_i + (D_i - RD_i) + (DS_i - RDS_i) - DE_i}$$

$$Std_{RF,i} = 100\% \times \frac{RFV_{RF,i}}{(G_i - RG_i) + (GS_i - RGS_i) - GE_i + (D_i - RD_i) + (DS_i - RDS_i) - DE_i}$$

Where:

$Std_{CB,i}$ = The cellulosic biofuel standard for year i, in percent.

$Std_{BBD,i}$ = The biomass-based diesel standard (ethanol-equivalent basis) for year i, in percent.

$Std_{AB,i}$ = The advanced biofuel standard for year i, in percent.

$Std_{RF,i}$ = The renewable fuel standard for year i, in percent.

$RFV_{CB,i}$ = Annual volume of cellulosic biofuel required by section 211(o) of the Clean Air Act for year i, in gallons.

$RFV_{BBD,i}$ = Annual volume of biomass-based diesel required by section 211(o) of the Clean Air Act for year i, in gallons.

$RFV_{AB,i}$ = Annual volume of advanced biofuel required by section 211(o) of the Clean Air Act for year i, in gallons.

$RFV_{RF,i}$ = Annual volume of renewable fuel required by section 211(o) of the Clean Air Act for year i, in gallons.

G_i = Amount of gasoline projected to be used in the 48 contiguous states and Hawaii, in year i, in gallons.

D_i = Amount of diesel projected to be used in the 48 contiguous states and Hawaii, in year i, in gallons.

RG_i = Amount of renewable fuel blended into gasoline that is projected to be consumed in the 48 contiguous states and Hawaii, in year i, in gallons.

RD_i = Amount of renewable fuel blended into diesel that is projected to be consumed in the 48 contiguous states and Hawaii, in year i, in gallons.

GS_i = Amount of gasoline projected to be used in Alaska or a U.S. territory in year i if the state or territory opts-in, in gallons.

RGS_i = Amount of renewable fuel blended into gasoline that is projected to be consumed in Alaska or a U.S. territory in year i if the state or territory opts-in, in gallons.

DS_i = Amount of diesel projected to be used in Alaska or a U.S. territory in year i if the state or territory opts-in, in gallons.

RDS_i = Amount of renewable fuel blended into diesel that is projected to be consumed in Alaska or a U.S. territory in year i if the state or territory opts-in, in gallons.

GE_i = The amount of gasoline projected to be produced by exempt small refineries and small refiners in year i, in gallons, in any year they are exempt per §§ 80.1441 and 80.1442, respectively. For 2012, this value is 3.27 bill gal. See further discussion in Section III.B.2 below.

DE_i = The amount of diesel projected to be produced by exempt small refineries and small refiners in year i, in gallons, in any year they are exempt per §§ 80.1441 and 80.1442, respectively. For 2012, this value is 1.23 bill gal. See further discussion in Section III.B.2 below.

The four separate renewable fuel standards for 2012 are based on the 49-state gasoline and diesel consumption volumes projected by EIA. The Act requires EPA to base the standards on an EIA estimate of the amount of gasoline and diesel that will be sold or introduced into commerce for that year. The projected volume of gasoline used to calculate the final 2012 percentage standards will be provided directly by EIA. For the purposes of this proposal, we have used the April 2011 issue of STEO for the gasoline projection. The projected volume of transportation diesel used to calculate the final 2012 percentage standards will be provided by EIA. For the purposes of this proposal, we have used the Early Release version of AEO2011. Gasoline and diesel volumes are adjusted to account for renewable fuel contained in the EIA projections. The projected volumes of ethanol and biodiesel used to calculate the final percentage standards will be provided by EIA; for 2011, the final values were based on EIA's Short-Term Energy Outlook (STEO). For the purposes of this proposal, we have used the April 2011 values for ethanol and biodiesel provided in the STEO. Although EIA will be providing fuel consumption projections for the final rule, using the most recent available EIA data for purposes of this proposal allows us to provide the affected industries with a reasonable estimate of the standards for planning purposes.

2. Small Refineries and Small Refiners

In CAA section 211(o)(9), enacted as part of the Energy Policy Act of 2005, Congress provided a temporary exemption to small refineries (those refineries with a crude throughput of no more than 75,000 barrels of crude per day) through December 31, 2010. In RFS1, we exercised our discretion under section 211(o)(3)(B) and extended this temporary exemption to the few remaining small refiners that met the Small Business Administration's (SBA) definition of a small business (1,500 employees or less company-wide) but did not meet the statutory small refinery definition as noted above. Because EISA did not alter the small refinery exemption in any way, the RFS2 program regulations exempted gasoline and diesel produced by small refineries and small refiners in 2010 from the

renewable fuels standard (unless the exemption was waived), see 40 CFR 80.1141.

Under the RFS program, Congress provided two ways that small refineries can receive a temporary extension of the exemption beyond 2010. One is based on the results of a study conducted by the Department of Energy (DOE) to determine if small refineries would face a disproportionate economic hardship under the RFS program. The other is based on EPA determination of disproportionate economic hardship on a case-by-case basis in response to refiner petitions.

In January 2009, DOE issued a study which did not find that small refineries would face a disproportionate economic hardship under the RFS program.[22] The conclusions were based in part on the expected robust availability of RINs and EPA's ability to grant relief on a case-by-case basis. As a result, beginning in 2011 small refiners and small refineries were required to participate in the RFS program as obligated parties, and there was no small refiner/refinery volume adjustment to the 2011 standard as there was for the 2010 standard.

Following the release of DOE's 2009 small refinery study, Congress directed DOE to complete a reassessment and issue a revised report. DOE recently re-evaluated the impacts of the RFS program on small entities and concluded that some small refineries would suffer a disproportionate hardship if required to participate in the program.[23] As a result, these refineries will be exempt from being obligated parties for a minimum of two additional years, 2011 and 2012.[24] The proposed 2012 standards reflect the exemption of these refineries. In addition, and separate from the DOE determination, EPA may extend the exemption for individual small refineries on a case-by-case basis if they demonstrate disproportionate economic hardship. A few refineries have satisfactorily made this demonstration, and EPA has acted on their requests. The gasoline and diesel volumes of those refineries have been appropriately accounted for in the development of the proposed standards. If additional individual refinery requests for exemptions are approved following the release of this NPRM, the final standards will be adjusted to account for those exempted volumes of gasoline and diesel. However, any requests for exemptions that are approved after the release of the final 2012 RFS standards will not affect the 2012 standards. As stated in the final rule establishing the 2011 standards, ''EPA believes the Act is best interpreted to require issuance of a single annual standard in November that is applicable in the following calendar year, thereby providing advance notice and certainty to obligated parties regarding their regulatory requirements. Periodic revisions to the standards to reflect waivers issued to small refineries or refiners would be inconsistent with the statutory text, and would introduce an undesirable level of uncertainty for obligated parties.'' Thus, after the 2012 standards are finalized, any additional exemptions issued will not affect those standards.

3. Proposed Standards

As finalized in the March 26, 2010 RFS2 rule, the standards are expressed in terms of energy-equivalent gallons of renewable fuel, with the cellulosic biofuel, advanced biofuel, and total renewable fuel standards based on ethanol equivalence and the biomass-based diesel standard based on biodiesel equivalence. However, all RIN generation is based on ethanol-equivalence. More specifically, the RFS2 regulations provide that production or import of a gallon of biodiesel will lead to the generation of 1.5 RINs. In order to ensure that demand for 1.0 billion physical gallons of biomass-based diesel will be created in 2012, the calculation of the biomass-based diesel standard provides that the required volume be multiplied by 1.5. The net result is a biomass-based diesel gallon being worth 1.0 gallons toward the biomass-based diesel standard, but worth 1.5 gallons toward the other standards.[25]

The levels of the percentage standards would be reduced if Alaska or a U.S. territory chooses to participate in the RFS2 program, as gasoline and diesel produced in or imported into that state or territory would then be subject to the standard. Neither Alaska nor any U.S. territory has chosen to participate in the RFS2 program at this time, and thus the value of the related terms in the calculation of the standards is zero.

Note that the terms for projected volumes of gasoline and diesel use include gasoline and diesel that has been blended with renewable fuel. Because the gasoline and diesel volumes estimated by EIA include renewable fuel use, we must subtract the total renewable fuel volume from the total gasoline and diesel volume to get total non-renewable gasoline and diesel volumes. The values of the variables described above are shown in Table III.B.3–1.[26] Terms not included in this table have a value of zero.

TABLE III.B.3–1—VALUES FOR TERMS IN CALCULATION OF THE STANDARDS

[Bill gal]

Term	Value
$RFV_{CB,2012}$	0.00355–0.0157
$RFV_{BBD,2012}$	1.0
$RFV_{AB,2012}$	2.0
$RFV_{RF,2012}$	15.20
G_{2012}	139.98
D_{2012}	44.47
RG_{2012}	14.17
RD_{2012}	0.83

Using the volumes shown in Table III.B.3–1, we have calculated the proposed percentage standards for 2012 as shown in Table III.B.3–2.

TABLE III.B.3–2—PROPOSED PERCENTAGE STANDARDS FOR 2012

Cellulosic biofuel	0.002% to 0.010%.
Biomass-based diesel	0.91%.
Advanced biofuel	1.21%.
Renewable fuel	9.21%.

IV. Biomass-Based Diesel Volume for 2013

In today's action we are proposing an applicable volume for biomass-based diesel for 2013, based on the statutory requirement to establish the applicable volume of biomass-based diesel for years after 2012 no later than 14 months before the first year for which the applicable volume will apply. To do this, we have reviewed RFS program implementation to date and analyzed a number of factors specified in the statute as part of this effort. We have investigated what the demand for biomass-based diesel is likely to be in 2013 taking into consideration the applicable advanced biofuel volume specified in the statute, the analyses we

[22] DOE report ''EPACT 2005 Section 1501 Small Refineries Exemption Study'', (January, 2009).

[23] ''Small Refinery Exemption Study: An Investigation into Disproportionate Economic Hardship,'' U.S. Department of Energy, March 2011.

[24] Since the standards are applied on an annual basis, the exemptions are likewise on an annual basis even though the determination of which refineries would receive an extension to their exemption did not occur until after January 1, 2011.

[25] 75 FR 14716, March 26, 2010.

[26] To determine the 49-state values for gasoline and diesel, the amounts of these fuels used in Alaska is subtracted from the totals provided by DOE. The Alaska fractions are determined from the most recent (2009) EIA State Energy Data, Transportation Sector Energy Consumption Estimates. The gasoline and transportation distillate fuel oil fractions are approximately 0.2% and 0.8%, respectively. Ethanol use in Alaska is estimated at 8.4% of its gasoline consumption (based on the same State data), and biodiesel use is assumed to be zero.

conducted in the RFS2 final rulemaking, and a consideration of biodiesel production, consumption, and infrastructure issues. In these investigations, biodiesel was the primary focus since it is expected to be the predominant type of biomass-based diesel through at least the next few years. However, renewable diesel may also play a role in meeting the biomass-based diesel standard. When appropriate, we have discussed renewable diesel separately from biodiesel.

Note that, in proposing the 2013 applicable volume of biomass-based diesel, we are not at this time proposing the percentage standards that would apply to obligated parties in 2013. Instead, the percentage standards will be determined after projections of gasoline and diesel volume are provided by the Energy Information Administration (EIA) in the fall of 2012, and will be announced by November 30, 2012. Moreover, in today's proposal we are not addressing potential exemptions for small refineries and/or small refiners in 2013, since such exemptions are only relevant in the context of specifying the percentage standards and their applicability. Finally, we are not proposing any applicable volumes of biomass-based diesel for 2014 or later years.

A. Statutory Requirements

Section 211(o)(2)(B)(i) of the Clean Air Act specifies the applicable volumes of renewable fuel on which the annual percentage standards must be based, unless the applicable volumes are waived or adjusted by EPA in accordance with specific authority and directives specified in the statute.[27] Applicable volumes are provided in the statute for years through 2022 for cellulosic biofuel, advanced biofuel, and total renewable fuel. For biomass-based diesel, applicable volumes are provided through 2012. For years after those specified in the statute (*i.e.* 2013+ for biomass-based diesel and 2023+ for all others), EPA is required to determine the applicable volume, in coordination with the Secretary of Energy and the Secretary of Agriculture, based on a review of the implementation of the program during calendar years for which the statute specifies the applicable volumes, and an analysis of the following:

- The impact of the production and use of renewable fuels on the environment, including on air quality, climate change, conversion of wetlands, ecosystems, wildlife habitat, water quality, and water supply;
- The impact of renewable fuels on the energy security of the United States;
- The expected annual rate of future commercial production of renewable fuels, including advanced biofuels in each category (cellulosic biofuel and biomass-based diesel);
- The impact of renewable fuels on the infrastructure of the United States, including deliverability of materials, goods, and products other than renewable fuel, and the sufficiency of infrastructure to deliver and use renewable fuel;
- The impact of the use of renewable fuels on the cost to consumers of transportation fuel and on the cost to transport goods; and
- The impact of the use of renewable fuels on other factors, including job creation, the price and supply of agricultural commodities, rural economic development, and food prices.

While EPA is given the authority to determine the appropriate volume of renewable fuel for those years that are not specified in the statute based on a review of program implementation and analysis of the factors listed above, the statute also specifies that the applicable volume of biomass-based diesel cannot be less than the applicable volume for calendar year 2012, which is 1.0 bill gallons.

It is useful to note that the statutory provisions described above are silent in two important areas. First, the statute does not provide numerical criteria or thresholds that must be attained in the determination of applicable volumes (other than specifying a minimum volume of 1.0 bill gal), nor does it describe any overarching goals such as maximizing GHG or energy security benefits or minimizing cost. The EPA, in coordination with DOE and USDA, is thus effectively charged with making a determination of the applicable volumes based on a judgment of their reasonableness in the context of a review of program implementation and analysis of the factors described above. Second, the statute does not provide authority to raise the applicable volumes of advanced biofuel or total renewable fuel above those specified in the statute for years up to and including 2022. Thus, any increase in the biomass-based diesel volume requirement above that specified for 2012 would not have any impact on the advanced biofuel or total renewable fuel volume requirements. Rather, increasing the biomass-based diesel volume requirement above 1.0 bill gallons would likely result in a change in the makeup of biofuels used to meet the advanced biofuel and the total renewable fuel standards, but would not change the total required volumes of those fuels (in terms of ethanol-equivalent gallons).

Finally, the statute also specifies the timeframe within which these volumes must be promulgated: The rules establishing the applicable volumes must be finalized no later than 14 months before the first year for which such applicable volume will apply. For the biomass-based diesel volume that would apply beginning on January 1, 2013, then, we must finalize the applicable volume by November 1, 2011.

B. Factors Considered in Assessing 2013 Biomass-Based Diesel Volumes

As described in Section IV.A, we are required to review the implementation of the RFS program for years prior to 2013, and to use information from this review in determining the applicable volume of biomass-based diesel for 2013. However, given the short history of the RFS program, we believe this review is of limited value. Prior to the beginning of the RFS2 program on July 1, 2010, the RFS1 program had no volume requirement specific to biomass-based diesel. Although RINs were generated for biodiesel under the RFS1 program and those RINs were available for use in satisfying obligated parties' RFS1 total renewable fuel Renewable Volume Obligation (RVO), we do not believe that the RFS1 program contributed significantly to producers' production decisions. Rather, biodiesel production was driven by market demand apart from the RFS program requirements coupled with a tax credit for biodiesel blends. We believe that little can be discerned from the RFS1 history about the operation of the biodiesel industry under a future RFS2 volume mandate.

In the short time since the RFS2 program went into effect, biodiesel production volumes have not increased substantially above historical levels due most likely to factors such as the availability of carryover RINs from 2008 and 2009 and the expiration of the biodiesel tax credit (which was reinstituted at the end of 2010). Domestic biodiesel consumption varied little in the 2008–2010 timeframe, averaging about 330 mill gallons each year.

Given the increases in the biomass-based diesel volumes that are required in the statute for 2011 and 2012, we expect production and consumption volumes of biodiesel to increase

[27] For example, EPA may waive a given standard in whole or in part following the provisions at 211(o)(7).

substantially above these recent historic levels. A review of the RFS program during 2011 and 2012 will, therefore, provide more relevant information regarding implementation of the RFS program for purposes of helping us to evaluate how the industry, as well as feedstock supplies and infrastructure, can respond to potential requirements in 2014 and beyond. For the purposes of proposing the 2013 biomass-based diesel applicable volume in today's NPRM, however, this information is not available.

With the limited information available on the current and historical operation of the RFS program, we believe it would be prudent for 2013 to consider only moderate increases above the statutory minimum of 1.0 bill gallons. One possible benchmark is provided by the increments and growth pattern of those increments that Congress established for the years 2009–2012, shown in Table IV.B–1.

TABLE IV.B–1—INCREMENTAL INCREASES IN BIOMASS-BASED DIESEL IN THE STATUTE

[Bill gal]

	Applicable volume of biomass-based diesel	Increment from previous year
2009	0.5	n/a
2010	0.65	0.15
2011	0.80	0.15
2012	1.0	0.20

These increments provide a precedent for evaluating a reasonable mandatory minimum growth pattern for 2013. The increments increased in magnitude over the four-year period specified in the statute, increasing from 0.15 bill gal to 0.20 bill gal. If this trend were to continue, the 2013 volume could be more than 0.20 bill gal higher than the 2012 volume. Thus our intention is to consider an incremental increase in the applicable volume of biomass-based diesel between 2012 and 2013 that is not a dramatic change from the trend in increments shown above.

In the final rulemaking establishing the RFS2 program, we developed renewable fuel volume scenarios for all years between 2010 and 2022. For 2013, we estimated a biomass-based diesel volume of 1.28 bill gallons. This volume was based primarily on a projection of the qualifying feedstocks that could be available. Our analyses of feedstock availability in the RFS2 final rule concluded that the 2013 minimum biomass-based diesel volume of 1.0 bill gallons could be met and, indeed, that 1.28 billion gallons could be reasonably produced.[28] The value of 1.28 bill gallons assumed for 2013 in the RFS2 final rule appears to roughly follow the pattern in incremental growth shown in Table IV.B–1 above. Moreover, this biomass-based diesel volume has already been partially evaluated in the RFS2 rule. Therefore, EPA decided to evaluate the appropriateness of proposing an applicable volume for 2013 of 1.28 bill gallons. To this end, we considered whether 1.28 bill gal of biomass-based diesel was reasonable given likely market demand, availability of feedstocks, production capacity, limitations related to storage and consumption, infrastructure, and the impacts of biomass-based diesel in a variety of areas as required under the statute. These impacts are discussed in the subsequent Section IV.C.

1. Demand for Biomass-Based Diesel

The demand for biomass-based diesel in 2013 will be a function of not only the biomass-based diesel standard, but also the advanced biofuel standard, since the standards under the RFS2 program are nested. That is, every RIN that is valid for meeting the biomass-based diesel standard is also valid for meeting the advanced biofuel standard. Moreover, there are currently only a small number of biofuels that are likely to be available for meeting the advanced biofuel standard. In addition to biomass-based diesel, these would include any RINs used to meet the cellulosic biofuel standard, coprocessed renewable diesel, and sugarcane ethanol. To the degree that there are limits in these other advanced biofuels, additional biomass-based diesel may be needed to make up any shortfall.

Since the advanced biofuel standard is an important factor in determining the demand for biomass-based diesel in 2013, we considered how it should be treated in light of the fact that we must determine the applicable 2013 volume for biomass-based diesel this year, but we will not set the 2013 standards (including the advanced biofuel standard for 2013) until next year. EPA has the authority to reduce the applicable volume of advanced biofuel in the event that it reduces the applicable volume of cellulosic biofuel. EPA will consider using this authority at the time it evaluates whether the 2013 applicable volume of cellulosic biofuel set in the statute should be lowered in light of projected production volumes. In both 2010 and 2011 EPA lowered the applicable volume of cellulosic biofuel without lowering the applicable volume of advanced biofuel. EPA is today proposing the same approach for 2012. In light of this history, and the fact that EPA cannot finally evaluate the issue of potentially lowering the applicable volume of advanced biofuel for 2013 until it sets the 2013 standards in November of 2012, we assume for purposes of today's evaluation of biomass-based diesel demand in 2013 that the applicable volume of 2.75 bill gallons of advanced biofuel specified in the statute for 2013 will be used in setting the 2013 advanced biofuel standard.

As described in Section II, the cellulosic biofuel industry continues to develop, with numerous projects under development, planned or underway. Nevertheless, the actual production volumes continue to fall far below the applicable volumes specified in the statute. For instance, we are proposing a cellulosic biofuel volume of 3.55–15.7 mill gallons for 2012, compared to the applicable volume of 500 mill gal specified in the statute. In 2013, the applicable volume doubles to 1.0 bill gallons. While we have not projected specific volumes of cellulosic biofuel that may be available in 2013, it is highly likely that they will fall significantly short of 1.0 bill gallons, and are likely to comprise only a small portion of the 2.75 bill gal applicable volume for advanced biofuel in 2013.

Imported sugarcane ethanol can also be used to meet the advanced biofuel standard. Between years 2000 and 2009, the volume of ethanol imported into the U.S. has ranged from 46–730 million gallons per year, or on average, approximately 200 million gallons per year. These volumes were comprised almost exclusively of sugarcane ethanol from Brazil. In 2010, imports of ethanol into the U.S. were among the lowest in the past 10 years, reaching only 17 million gallons.[29] Some of this recent decline in ethanol imports may be due to extremely wet weather in 2009/10 and dry conditions in 2010/11 which cut into Brazilian supplies of sugarcane and reduced sugar content. In addition, some Brazilian sugarcane mills have the ability to switch between producing sugars for sweetener markets and extracting sugars for ethanol markets. The international price of sweetener was so attractive in 2010 that mills may have given greater priority to sugar. Another factor is the expanding sales of flex fuel vehicles in Brazil, which has

[28] Renewable Fuel Standard Program (RFS2) Regulatory Impact Analysis. EPA–420–R–10–006, February 2010. See Table 1.2–3.

[29] Official Statistics of the U.S. Department of Commerce U.S. International Trade Commission. Data only available from January–November 2010.

continued to increase Brazilian domestic ethanol demand, thus likely limiting amounts available for exports. Therefore, history shows that the volume of imported ethanol can fluctuate greatly due to a variety of market influences.

Longer-term market projections can help to better understand the potential outlook for imports of sugarcane ethanol as a function of international agricultural and energy markets. One source that evaluates trends and issues for U.S. energy markets is the U.S. Energy Information Administration's (EIA) Annual Energy Outlook (AEO).[30] This report projects U.S. net ethanol imports in 2013 to be 332 million gallons. Another source for U.S. and world commodity projections is the Food and Agricultural Policy Research Institute's (FAPRI) U.S. and World Agricultural Outlook. The most current version of the outlook, the FAPRI 2010 Agricultural Outlook, projects for the year 2013 that the U.S. will have net ethanol imports of 333 million gallons.[31] In comparison, for the RFS2 final rulemaking, we assumed 190 million gallons of imported sugarcane ethanol could be available in 2013 based on EIA's AEO2007.

Since ethanol supplies can flow to countries other than the U.S., an important part of understanding potential imports into the U.S. are the current and future biofuel mandates and goals of other nations. Such mandates include, for instance, Canada's 5% fuel ethanol mandate which started in late 2010, requiring approximately 500 million gallons per year. Another goal is that of the EU, the renewable energy directive, which includes a minimum target of 10% renewable energy use in transport by 2020, a portion of which is expected to be met with ethanol. Other countries with ethanol mandates and goals are India, Indonesia, Philippines, Costa Rica, Peru, and Argentina, to name a few. According to Hart Energy Consulting, most countries will be in a potential supply deficit for ethanol by 2020, and the primary country in a position to supply the global ethanol market will be Brazil.[32] Chief competitors for the U.S. to receive Brazilian ethanol are expected to be the EU, China, and Japan. This increasing international demand for biofuels may limit export supplies available for the U.S. in 2013.

The demand for ethanol in Brazil is also increasing, further limiting volumes that will likely be exported. For instance, the sales share of flex-fuel vehicles (FFVs) in Brazil are reported to have risen dramatically in the last decade, contributing to an in-use fleet that is increasingly capable of operating on pure ethanol. By 2014, 70% of the in-use fleet is expected to be FFVs, compared to only 33% in 2009. While the aforementioned FAPRI report projected that 2013 Brazilian demand for ethanol could be 7.7 billion gallons, S&D estimated that 2013 demand could potentially reach as high as 11 billion gallons, outpacing Brazilian production capacity.[33]

We believe that given the discussions above, it is reasonable to conclude that Brazilian sugarcane ethanol will continue to provide limited volumes of advanced biofuel in the U.S. in the near term due to other competitive uses. While imports of sugarcane ethanol into the U.S. in 2013 could exceed the 190 million gallons estimated in RFS2, they are unlikely to reach the historical high of 730 mill gallons for the reasons described above.

In addition to cellulosic biofuel and imported sugarcane ethanol, there is also some potential for other advanced biofuels that could be used to meet the advanced biofuel standard of 2.75 bill gallons. The most likely of these is sugar-based ethanol from domestic sugarcane. Several companies have announced plans for sugar-based ethanol production in California, Louisiana, and Florida. Two of these companies have announced plans for multiple ethanol production facilities, however none of these companies have yet begun construction. In addition, coprocessed renewable diesel is uncertain, though there could conceivably be up to a hundred million gallons by 2013. Potential production of other advanced biofuels such as renewable butanol or ethanol from non-corn starches in biomass-fueled facilities is even less certain for 2013. However, as described in Section II.D, companies such as Gevo, Solazyme, and LS9 are in the process of building or converting facilities to produce advanced biofuels in the form of butanol, jet fuel, and renewable diesel, respectively, that may count as advanced biofuel. We expect all these other sources of advanced biofuel to contribute about one or two hundred million gallons in 2013.

In summary, we believe that the total volume of cellulosic biofuel, imported sugarcane ethanol, and other advanced biofuels that may be available in 2013 is likely to be less than about 1 billion gallons. In order to reach an advanced biofuel volume of 2.75 billion gallons, then, it is likely that more than 1.0 bill gallons of biomass-based diesel (representing more than 1.5 billion ethanol-equivalent gallons) will be needed. The volume of biomass-based diesel that may be needed in excess of 1.0 bill gallons could potentially be on the order of hundreds of millions of gallons. This result is similar to the assumption made by IHS Global Insight in their recent report, in which they assume that an additional 300 million gallons of biodiesel will be needed over and above the 1.0 billion gallons mandate for biomass-based diesel in order for the advanced biofuel standard to be met.[34]

As mentioned above, we do not believe it would be prudent to set the biomass-based diesel applicable volume for 2013 such that the increment over 2012 volumes is excessive in comparison to the increments, and trajectory of increments, established by Congress for the years 2009–2012. As a result, we believe that a biomass-based diesel volume of 1.28 bill gallons would both reflect likely increased demand for biomass-based diesel in 2013 and provide an increment that is not excessive when compared to those established by Congress.

2. Availability of Feedstocks to Produce 1.28 Billion Gallons of Biodiesel

As described above, in the final rulemaking establishing the RFS2 program we developed renewable fuel volume scenarios for all years between 2010 and 2022. For 2013, we estimated a biomass-based diesel volume of 1.28 bill gallons. This volume was based primarily on a projection of the qualifying feedstocks that could be available, as summarized in Table IV.B.2–1.

TABLE IV.B.2–1—FEEDSTOCKS CONTRIBUTING TO 2013 VOLUME OF 1.28 BILL GAL

Source	Volume (mill gal)
Yellow grease and other rendered fats	380
Corn oil	300

[30] U.S. Energy Information Administration (EIA). ''AEO2011 Early Release,'' December 2010. *http://www.eia.doe.gov/forecasts/aeo/index.cfm.*

[31] Food and Agricultural Policy Research Institute. ''FAPRI 2010 U.S. and World Agricultural Outlook: World Biofuels,'' *http://www.fapri.iastate.edu/outlook/2010/text/15Biofuels.pdf.*

[32] Hart Energy Consulting. ''Global Biofuels Outlook: 2010–2020,'' October 2010.

[33] Sucres et Denrées (S&D), ''Ethanol Report,'' November 2010.

[34] ''Biodiesel Production Prospects for the Next Decade,'' IHS Global Insight, March 11, 2011.

TABLE IV.B.2–1—FEEDSTOCKS CONTRIBUTING TO 2013 VOLUME OF 1.28 BILL GAL—Continued

Source	Volume (mill gal)
Virgin vegetable oil	600
Total	1,280

We continue to believe that the feedstock volumes shown in Table IV.B.2–1 are reasonable projections for 2013. For instance, according to the U.S. Census Bureau, the total volume of yellow grease and other greases (most likely trap grease) produced in 2010 was about 340 mill gallons.[35] The volume of inedible tallow produced in the same period was over 400 mill gallons. Other potential sources could include edible tallow, lard, and poultry fats. Taken together, the total volume of available grease and fats for use in producing biomass-based diesel is in excess of the 380 mill gallons we projected in the RFS2 final rule.

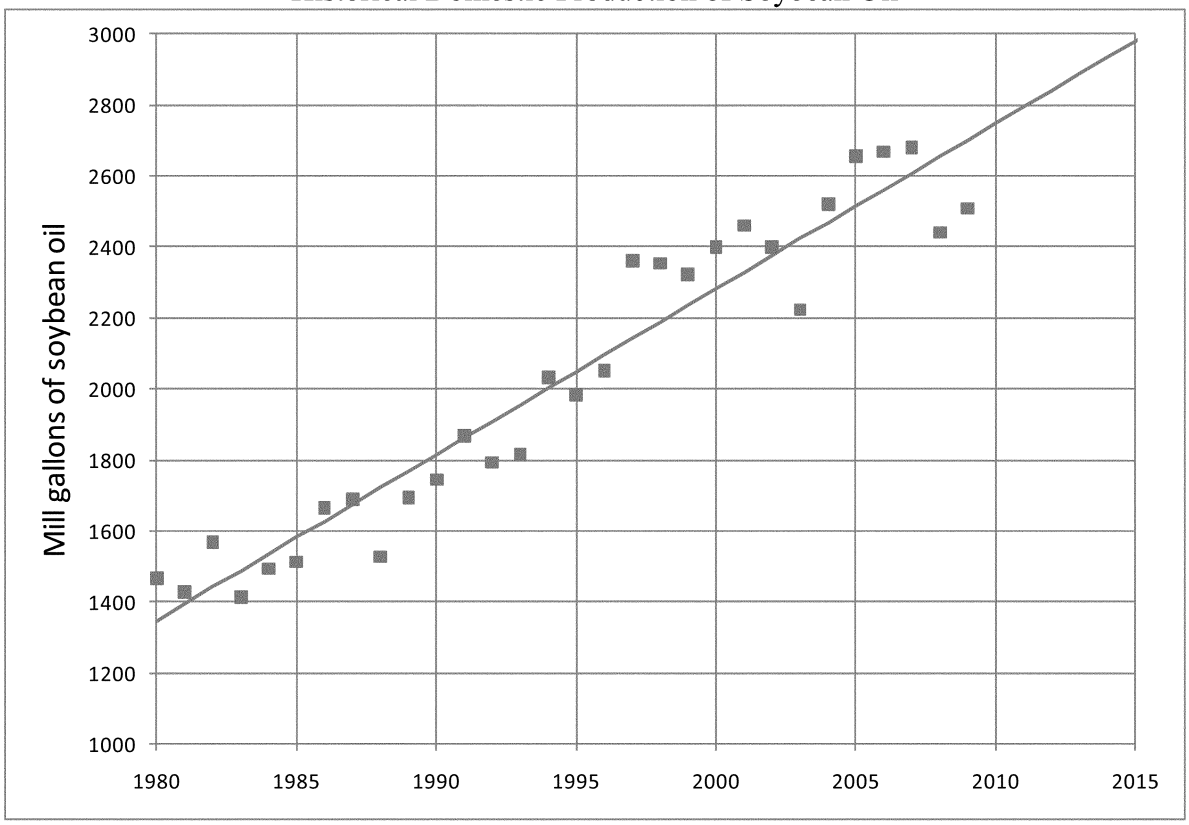
The 300 million gallons of biodiesel produced from corn oil extracted from distillers grains produced at ethanol facilities is based on projections of the percentage of the ethanol industry using corn oil extraction technology and the amount of oil extracted per bushel of corn in 2013. The RFS2 final rule projected that by 2013, 34% of all dry mill ethanol facilities would extract corn oil from the by-products of ethanol production. A recent survey of the ethanol industry found that by 2008 over 30% of all dry mill ethanol plants were already extracting corn oil from their co-products.[36] EPA expects that the percentage of dry mill ethanol facilities using some form of corn oil extraction technology will increase to 60% by 2013. The corn oil extraction technology currently being used at most dry mill ethanol facilities is capable of extracting approximately one third of the oil contained in the corn kernel from the whole stillage and/or its derivatives (a significantly reduced rate than the two thirds of oil extracted assumed to be technically feasible by 2022 in the RFS2 final rule). If 60% of all dry mill corn ethanol facilities were extracting one third of the oil in the corn kernel in 2013 the amount of corn oil available for biodiesel production would be approximately 270 million gallons. As corn oil extraction technology develops and higher oil extraction rates are achieved, corn ethanol producers are likely to adopt this new technology. EPA expects that by 2013 these technology improvements will increase corn oil production levels to the 300 million gallons projected in the RFS2 rule. Alternatively, additional corn oil could come from ethanol production facilities using corn fractionation or wet milling technology. This corn oil was not considered as a biodiesel feedstock in the RFS2 rule, but market conditions may result in its availability to the biodiesel industry. The high adoption rate of corn oil extraction and the promise of ever increasing oil extraction yields indicate that the 300 million gallons of corn oil extraction projected in the RFS2 rule in 2013 remains a reasonable projection.

With regard to virgin vegetable oil, the modeling we conducted for the RFS2 final rule assumed that it would be composed entirely of soybean oil. For the purposes of today's proposal we examined recent and historical soybean oil production and consumption volumes from the U.S. Census Bureau to verify that 600 million gallons was a reasonable potential volume for biodiesel production in 2013. As shown in Figure IV.B.2–1, soy oil production has increased steadily over the last 30 years, reaching 2.5 bill gal in 2009. If these production trends continue, domestic soy oil production could reach nearly 2.9 bill gal by 2013.

[35] Current Industrial Reports, U.S. Census Bureau, M311K—Fats and Oils: Production, Consumption, and Stocks, Table 2b. Assumes 7.5 lb/gal. December projection based on the average of January–November. *http://www.census.gov/manufacturing/cir/historical_data/m311k/index.html.*

[36] Mueller, Steffen. ''Detailed Report: 2008 National Dry Mill Corn Ethanol Survey.'' University of Illinois at Chicago Energy Resources Center (May 4, 2010). Available online: *http://ethanolrfa.3cdn.net/2e04acb7ed88d08d21_99m6idfc1.pdf.*

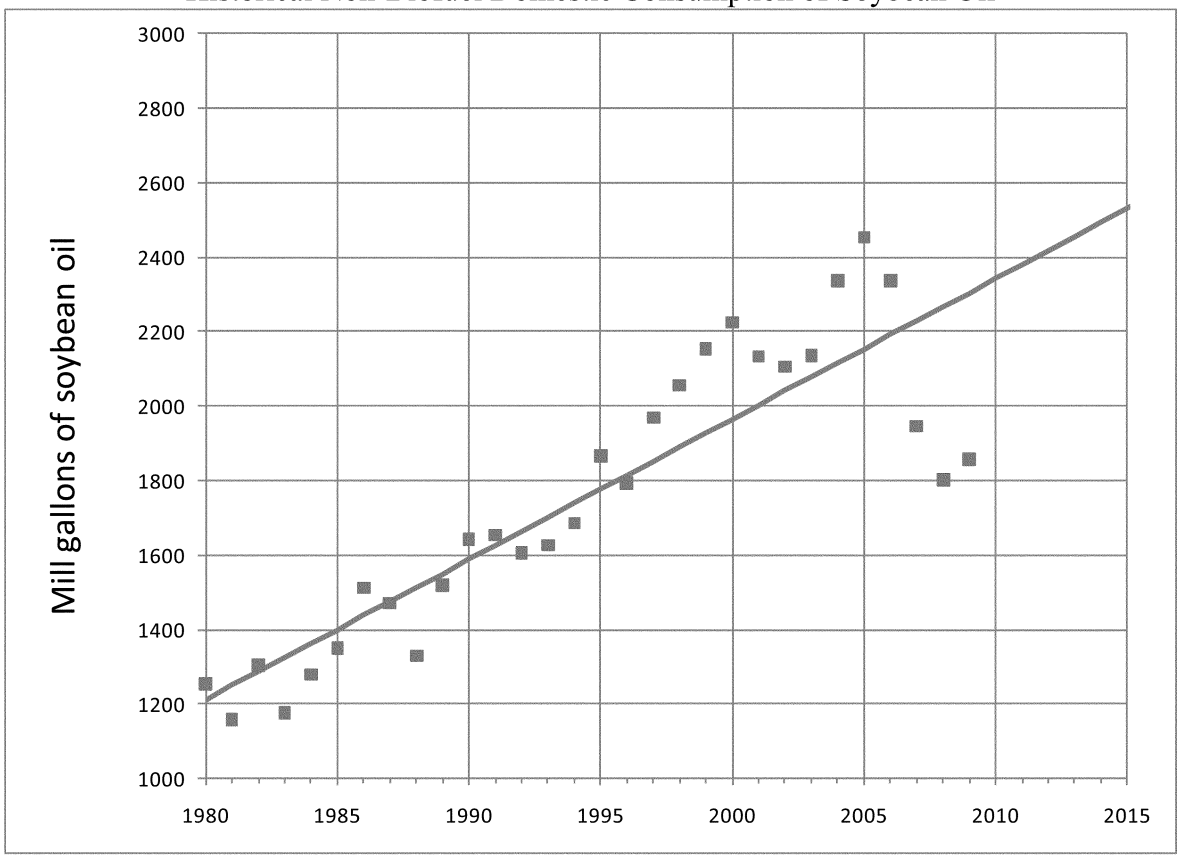
Figure IV.B.2-1
Historical Domestic Production of Soybean Oil



Source: Oil Crops Yearbook 2010, U.S. Department of Agriculture, Economic Research Service, Appendix Table 5. Assumes 7.68 lb/gal.

To determine what portion of domestically produced soy oil could be available for use in the production of biomass-based diesel in 2013, we also examined recent historical trends for domestic consumption and exports. Domestic consumption of soy oil for purposes other than biofuel has also increased steadily over the last 30 years, but was notably lower in the period 2007–2009 compared to previous years. If consumption returns to historical trends for years after 2009, consumption could be as high as 2.5 bill gal by 2013. However, as shown in Figure IV.B.2–2 below, this would require a significant increase in consumption from 2009 to 2010. Thus 2013 consumption could be lower than 2.5 bill gal.

Figure IV.B.2-2
Historical Non-Biofuel Domestic Consumption of Soybean Oil



Source: Oil Crops Yearbook 2010, U.S. Department of Agriculture, Economic Research Service, Appendix Table 5. Assumes 7.68 lb/gal.

Based on these projections, then, the volume of soy oil that would be available for the production of biomass-based diesel would be at least 400 million gallons (2.9–2.5 bill gal). However, soy oil that has historically been exported represents another potential source of soy oil for biodiesel production. Exports of soy oil have followed only a very weak increasing trend, averaging about 230 mill gal/year over the same 30 year period, and about 250 mill gal/year over the last 10 years. If these exports were diverted to the production of biomass-based diesel, the total volume of soy oil available for the production of biodiesel and/or renewable diesel would exceed 600 mill gallons.

Although we assumed that all virgin vegetable oils used in biomass-based diesel production would be soy oil in the RFS2 final rule, in fact other seed oils may contribute meaningful volumes to the pool available for the production of biomass-based diesel. For instance, on September 28, 2010 we approved a RIN-generating pathway for biodiesel made from canola oil.[37] The volume of biodiesel made from canola oil was 96 mill gallons in 2008.[38] In addition, we are evaluating other pathways for the production of biodiesel from oilseeds, such as camelina, which could potentially be approved for RIN generation by 2013. Algal oil could also provide additional feedstocks if promising technologies for production are commercialized.

IHS Global Insight recently released an independent report in which they conducted macroeconomic modeling to investigate biodiesel growth scenarios and related impacts on commodities such as oilseed crops. Their agricultural modeling indicated that a slightly more diverse mix of feedstocks would be used to meet a total domestic biodiesel production volume of 1.3 bill gallons in 2013. These volumes are shown in Table IV.B.2–2.

TABLE IV.B.2–2—FEEDSTOCKS CONTRIBUTING TO 2013 VOLUME OF 1.3 BILL GAL FROM IHS GLOBAL INSIGHT MODELING

Source	Volume (mill gal)
Yellow grease and other rendered fats	272
Corn oil	185
Soybean oil	624
Canola oil	68
Palm oil	7
Other	185
Total	1,340

Source: Table 2, "Biodiesel Production Prospects for the Next Decade," IHS Global Insight, March 11, 2011.

This modeling concluded that soy oil production would be lower than the trends shown in Figure IV.B.2–1, with a correspondingly lower volume of soy oil being used for domestic non-biofuel consumption as well. Nevertheless, their modeling concluded that soy oil availability for biodiesel production would be 624 mill gallons, slightly higher than what we assumed in the RFS2 final rule. While their modeling

[37] 75 FR 59622.

[38] EPA memorandum, "Summary of Modeling Input Assumptions for Canola Oil Biodiesel for the Notice of Supplemental Determination for Renewable Fuels Produced Under the Final RFS2 Program," Document # EPA–HQ–OAR–2010–0133–0049.

concluded that the volumes of greases, fats, and corn oil would be somewhat less than what we assumed in the RFS2 final rule, they were able to quantify the available volumes of other feedstocks that we did not explicitly investigate in the RFS2 final rule. As a result, this report supports our finding that sufficient feedstocks will be available to produce 1.28 bill gallons of biomass-based diesel in 2013.

3. Production Capacity

Total production capacity of the biodiesel industry has exceeded 1.28 bill gallons for a number of years. As of January 2011, total production capacity was more than 2.8 bill gallons for 168 plants [39]. According to the National Biodiesel Board, 90 of these plants had registered with the EPA under the RFS2 program as of February 4, 2011, and these plants had a combined production capacity of over 1.9 bill gallons. The remaining plants are either producing extremely low volumes that fall under the regulatory threshold for RIN generation, are producing products other than biodiesel such as soaps or cosmetics, or have shut down until such time as the demand for biodiesel rises.

Most of the 90 registered plants are currently producing at significantly under capacity, as evidenced by the fact that total production volumes in 2010 were 300–400 million gallons, and the registered plants have a capacity of over 1.9 billion gallons. If these plants increase production to meet the 800 million gallon volume requirement for 2011, on average, then, registered biodiesel producers will be producing at about half of their capacity this year. Nevertheless, we believe based on the registered capacity of existing plants and the relative ease of expanding current production within this capacity that the biodiesel industry can produce at least 1.28 bill gallons in 2013 with little leadtime needed for facilities to ramp up to higher production levels, and/or for currently idle facilities to come back online.

4. Consumption Capacity

Biodiesel is registered with the EPA under 40 CFR part 79 as a legal fuel for use in highway vehicles. Under this registration, it can legally be used at any blend level, from 1% (B1) to 100% (B100). However, other factors typically limit the concentration of biodiesel in conventional diesel fuel. Since the consumption of biodiesel at lower blend levels would tend to increase the geographic areas where biodiesel must be marketed, it is an important consideration in how much biodiesel can be consumed in the U.S. as a whole as well as how the infrastructure may need to change to accommodate 1.28 bill gallons in 2013.

Most engine manufacturers have explicit statements in their engine warranties regarding acceptable biodiesel blend levels. Although a few permit B100 to be used in their engines without any adverse impact on their warranties, most limit biodiesel blends to B20 or less, and about half allow no more than B5 [40]. For specific applications where a party knows which engines will be using biodiesel blends, higher concentrations of biodiesel may be possible. However, for general distribution such as at retail facilities, these warranty conditions create a disincentive to blend or sell biodiesel at higher concentrations, and would tend to drive most blends towards low concentrations of biodiesel such as B5.

Cold weather operability represents another reason for preferential use of B5 and even B2. The most common measure of cold weather operability is the fuel cloud point. The cloud point is the temperature at which gelling begins (as indicated by solid crystals beginning to form in the fuel), and thus is an indicator of when potential engine filter plugging issues could arise. The higher the cloud point temperature of the fuel, the more likely such problems are to be experienced in cold weather. Biodiesel generally has a higher cloud point than conventional, petroleum-based diesel fuel, with fat-based biodiesel such as tallow having a higher cloud point than virgin oil-based biodiesel such as a fuel made with soybean and canola oil. While cloud point issues with conventional, petroleum-based diesel are generally mitigated through blending with lighter grades (*i.e.* #1 diesel fuel), the cloud point of biodiesel generally requires more dramatic interventions such as heated storage tanks, lines, and blending equipment, as well as heating rail cars and tank trucks. However, some of these biodiesel cloud point mitigation efforts may be reduced through the use of low biodiesel blend levels such as B2 or B5, since cloud point is strongly correlated with biodiesel concentration in the final blend. Insofar as biodiesel is blended into conventional diesel before being transported to its final destination for sale, low biodiesel blend levels may reduce the need for heated equipment at the final destination.

Based on highway and nonroad diesel consumption projections for 2013 from the EIA, a biodiesel volume of 1.28 bill gallons would represent about 2.8% of all diesel fuel.[41] If all biodiesel were to be blended as B5, just over half of the diesel fuel consumed nationwide in 2013 would contain biodiesel. However, today some biodiesel is blended at concentrations higher than B5, and we expect that at least these same volumes would be blended at concentrations higher than B5 in the future. This would reduce the amount of diesel fuel that would contain some biodiesel, and thus would also reduce the geographical areas where biodiesel must be distributed.

We believe that distributing and consuming 1.28 bill gallons of biodiesel in 2013 is achievable. A number of states already have mandates for the use of biodiesel in 2013, and efforts are underway to ensure that these mandates can be met. These include Minnesota, Oregon, Washington, Pennsylvania, New Mexico, and Louisiana. Collectively, these states account for approximately 13 percent of the nationwide consumption of diesel. Other states have implemented other forms of incentives as shown in Table IV.B.4–1.

TABLE IV.B.4–1—STATES WITH REBATES, REFUNDS, REDUCED TAX RATES, OR CREDITS FOR BIODIESEL PRODUCTION OR BLENDING [42]

Illinois
Indiana
Kansas
Kentucky
Maine
Maryland
Michigan
Montana
North Dakota
Oklahoma
Rhode Island
South Carolina
South Dakota
Texas
Virginia
Washington

* Conditions and exemptions for all incentive programs vary by state.

Collectively, these states account for approximately 37% of the nationwide consumption of biodiesel. A variety of states also have requirements for the use of biodiesel in state fleets, provisions that allow biodiesel to be used as an alternative to meeting alternative fuel vehicle mandates, and credits/rebates

[39] USA Plants, biodieselmagazine.com, as of January 27, 2011.

[40] ''Automaker's' and Engine Manufacturers' Positions of Support for Biodiesel Blends,'' Biodiesel.org.

[41] Annual Energy Outlook (AEO) 2011 Early Release, Table 2.

[42] U.S. Department of Energy, Alternative Fuels and Advanced Vehicles Data Center.

for the installation of biodiesel dispensing and blending equipment.

Altogether, therefore, more than half of the states in the U.S. have mandates and/or incentives that will induce them to address biodiesel infrastructure issues. Efforts in these areas will directionally help the nation to meet a 1.28 bill gal biomass-based diesel requirement in 2013.

5. Biomass-Based Diesel Distribution Infrastructure

Biodiesel/petroleum based diesel fuel blends have limited ability to be transported using the existing petroleum product distribution system. There has been limited transportation of up to B5 blends by certain pipelines that do not carry jet fuel. However, concerns over potential contamination of jet fuel with biodiesel currently prevent biodiesel blends from being transported by the majority of pipelines.[43] The predominant means of biodiesel distribution is to transport it separately by rail car, tank truck, or barge to a petroleum terminal where it is blended with petroleum diesel fuel to make B2, B5, B20 blends that are then transported by truck to retail or fleet operators. For this analysis, we have assumed that all biodiesel is transported in a segregated fashion to petroleum terminals. To the extent that biodiesel is transported by pipeline, this may tend to reduce the burden on the fuel distribution system.

Heated and insulated rail cars, tank trucks, barges, storage tanks, and blending equipment are required for biodiesel distribution to protect against fuel gelling during the cold season. Following are the cloud points of biodiesel manufactured from various feedstocks: Canola oil biodiesel 32F, soy biodiesel 34F, yellow grease biodiesel 41F, jatropha oil biodiesel 46F, tallow biodiesel 54F–63F, and palm oil biodiesel 63F.[44] Based on a review of these properties, climactic data, and the likelihood that downstream parties will need to accommodate biodiesel produced from various feedstocks, we believe that heated/insulated biodiesel infrastructure would be needed throughout most of the U.S.[45]

Approximately 82 petroleum terminals blended biodiesel into petroleum-based diesel fuel in 2010.[46] Our evaluation of the changes to the fuel distribution infrastructure that would be needed to support the use of 920 mill gallons/yr of biodiesel in 2012 and 1,200 mill gallons/yr in 2013 is based on the analysis conducted for the RFS2 final rule.[47] See Table IV.B.5–1.

TABLE IV.B.5–1—ADDITIONAL INFRASTRUCTURE NEEDED TO DISTRIBUTE BIODIESEL IN 2012 AND 2013

	Additional distribution assets needed in 2012 relative to 2011	Additional distribution assets needed in 2013 (with 1.28 bill gal) relative to 2012	Total distribution assets needed to support the 2012 biodiesel volume	Total distribution assets needed to support 1.28 bill gal biodiesel volume
Petroleum Product Terminals with Biodiesel Blending Capability*	74	130	428	558
Rail Cars	131	230	754	984
Tank Trucks	14	25	83	108
Barges	4	7	23	29

* There are approximately 853 petroleum terminals that offer diesel fuel in the U.S.

The RFS2 final rule estimated that additional manifest rail and barge receipt facilities would be needed to accept shipments of biofuels of all types including biodiesel.[48] We concluded that manifest rail and barge shipments of biodiesel would be able to utilize the manifest rail and barge receipt facilities that were initially constructed to handle increased ethanol volumes.

We assume that terminals adding biodiesel capability would install segregated biodiesel storage, in-line biodiesel blending equipment, and facilities to receive shipments of biodiesel by tank truck. In-line blending refers to the process of blending biodiesel into petroleum-based diesel fuel in the delivery line that feeds into the tank truck from the terminal storage tanks. This process ensures an accurate blend ratio and a fully mixed biodiesel/petroleum diesel batch. We also assume that all equipment at terminals as well as the vessels used to transport biodiesel would be heated and insulated to prevent gelling during the cold season. We anticipate that some terminals may splash blend biodiesel before installing in-line biodiesel injection equipment. Splash blending refers to the process of first loading petroleum-based diesel fuel into a tank truck followed by biodiesel so that the final blend meets the desired blend ratio. However, we expect that this approach will be temporary due to the heightened concerns over achieving a correct blend ratio and a fully mixed biodiesel blend that accompanies splash blending. Some terminals may also delay the need to install segregated/heated biodiesel storage by storing 50/50 blends of biodiesel/petroleum-based diesel fuel that is subsequently used to manufacture B2/B5/B20 blends for distribution to end users. These practices may provide additional flexibility if some terminals wish to temporarily defer installing in-line blending equipment and segregated biodiesel storage equipment.

The RFS2 FRM analysis concluded that industry would have the capability to add the necessary facilities to distribute biodiesel in a timely fashion to meet the envisioned volumes.[49] Based on industry input, we continue to believe that this is the case. Industry activities are currently progressing to ramp up biodiesel consumption from the approximately 380 mill gallons estimated to be used in the U.S. in 2010 to the 760 mill gallons that is estimated

[43] Biodiesel contamination of jet fuel can contribute to fuel gelling and engine deposits which can lead to jet engine operability problems.

[44] The cloud point refers to the temperature at which biodiesel begins to gell. Biodiesel cloud points are taken from the NC State University and A&T State University Cooperative Extension Web page, updated December 9, 2010, *http://www.extension.org/pages/Biodiesel_Cloud_Point_and_Cold_Weather_Issues,* and the Biodiesel cold weather blending study, Cold Flow Blending Consortium, National Biodiesel Board, 2001, *http://www.nrel.gov/vehiclesandfuels/npbf/pdfs/cftr_72805.pdf.*

[45] The ASTM International ''Standard Specification for Diesel Fuel Oils'', ASTM D975, contains tenth percentile minimum ambient air temperatures for the U.S.

[46] Communication from Larry Schafer of the National Biodiesel Board, March 2, 2011.

[47] Renewable Fuels Standard Program (RFS2), Regulatory Impact Analysis (RIA), EPA–420–R–10–006, February 2010.

[48] Manifest rail refers to the shipment of a product in rail cars in a train that includes rail cars containing other products.

[49] See sections 1.6 and 4.2.3 of the RIA to the RFS2 final rule.

to be used in 2011 to meet the biomass-based diesel volume requirement. For example, Kinder Morgan and the Renewable Energy Group opened a substantial biodiesel distribution facility to serve the Chicago area in December of 2010.[50] Magellan also recently announced that it plans to complete its biodiesel blending facility in Sioux Falls Minnesota in 2011.[51] In addition, just as there has been considerable biodiesel production capacity idled due to lack of demand which will be brought back on line as biodiesel volumes ramp up, we believe that there are also substantial idled biodiesel distribution assets that could be readily brought back into service.

Renewable diesel/petroleum diesel fuel blends can be transported in existing petroleum product transportation infrastructure from the point of production to the end-user.[52] The production facility that we expect will account for the renewable diesel produced through 2013 currently ships its product short distances by tank truck to facilities that produce blends with petroleum-based diesel fuel. To estimate the infrastructure impacts of renewable diesel, we used the estimate from the RFS2 final rule of 80 mill gallons of renewable diesel in 2013.[53] This volume is close to the production volume estimated for the Dynamic Fuels facility in Geismar, Louisiana that we referenced in the final rulemaking setting the 2011 RFS standards. However, more recently the U.S. Department of Energy awarded a $241 million loan guarantee for the construction of a renewable diesel facility by Diamond Green. Construction on this 137 million gallon per year project is scheduled to begin in Norco, LA this year and fuel production is scheduled for the first quarter of 2013. EPA does not expect that the production from this facility will have a significant impact on overall biomass-based diesel distribution infrastructure in the U.S. given that the renewable diesel blends can be transported in existing petroleum product transportation infrastructure. For the purposes of this analysis we assumed 80 mill gallons of renewable diesel for consistency with the RFS2 final rule and the final rule setting the RFS standards for 2011.

We estimate that a total of 5 tank trucks will be needed to transport 80 mill gallons/yr of renewable diesel to the locations where it is blended with petroleum-based diesel fuel in 2012 and 2013.[54] For the purposes of this analysis, we assumed that approximately one half of this volume will be produced in 2011. We estimate that an additional 2–3 tank trucks would be needed to transport renewable diesel fuel in 2012/2013 compared to 2011. Once renewable diesel fuel blends are created, further distribution is accomplished in the same fashion as petroleum-based diesel fuel. In the future, the renewable diesel fuel production facility identified may be connected by a short pipeline directly to the Colonial pipeline and/or begin shipping by barge/rail. If shipment by pipeline develops, then no additional transportation vessels would be needed to ship renewable diesel fuel compared to petroleum-based diesel fuel. We anticipate that the infrastructure at petroleum terminals necessary to blend the 80 mill gallons/yr of renewable diesel fuel projected for 2012/2013 with petroleum-based diesel fuel will have been put in place by 2011.[55]

Based in the above discussion, we believe that sufficient fuel distribution infrastructure will be available to support the use of 1 bill gal of biomass-based diesel in 2012 and 1.28 bill gal in 2013.

C. Impacts of 1.28 Billion Gallons of Biomass-Based Diesel

In order to evaluate the impacts of a biomass-based diesel volume of 1.28 bill gal in the areas required under the statute (see Section IV.A), we first considered what the appropriate reference would be. Since the statute requires that the biomass-based diesel volume we set for 2013 be no lower than 1.0 bill gal, this would appear to be a reasonable reference point. Therefore, in the discussion that follows, we have focused on either a volume of 1.28 bill gal biomass-based diesel, or an increment of 0.28 bill gal biomass-based diesel, depending on the specific sources of information and analyses available.

As described in Section IV.B.1 above, even if we set the applicable volume for biomass-based diesel at 1.0 bill gal, the demand for biomass-based diesel in 2013 is likely to be on the order of 1.28 bill gal or more due to the limited projected availability of other advanced biofuels (including cellulosic biofuel, imported sugarcane ethanol, and others). Since the actual demand for biomass-based diesel would likely be 1.28 bill gal or higher regardless of whether we set the biomass-based diesel requirement at 1.0 or 1.28 bill gal, the net impact of setting the biomass-based diesel volume requirement at 1.28 bill gallons in 2013 could be seen as zero.

We recognize that this conclusion is based on an applicable advanced biofuel volume of 2.75 bill gallons. While we will be considering the possibility of lowering the 2013 advanced biofuel applicable volume below 2.75 bill gal in next year's rulemaking, we have not presumed any such reduction in today's NPRM. Such reductions in advanced biofuel must occur in the context of determining the applicable volume of cellulosic biofuel for 2013, and using information available at that time regarding advanced biofuel volumes that are projected to be available in 2013.

Nevertheless, the statute requires that we analyze specified environmental and other impacts in deriving an applicable biomass-based diesel volume for 2013 and other years, and these analyses can be conducted for 1.28 bill gal biomass-based diesel (or an increment of 0.28 bill gal). Most of the areas we are required to analyze were covered in the RFS2 final rule in some form, and we believe that we can use this information in satisfying our statutory obligations to analyze specified factors in determining the applicable volume of biomass-based diesel for 2013.

Some of the analyses presented in the RFS2 final rule were for the specific case of 1.28 bill gallons in 2013. These analyses included an investigation of the expected annual rate of commercial production of biomass-based diesel in 2013, impacts on agricultural commodity supply and price, and the cost to consumers of transportation fuel. Some of these were discussed in Section IV.B above. Most of the analyses in the RFS2 final rule, however, were conducted to represent full implementation of the RFS2 program in 2022. In these analyses, the biomass-based diesel volume was estimated to be 1.82 bill gallons, and was compared to

[50] Biodiesel Magazine, November 17, 2010. *http://www.biodieselmagazine.com/articles/4568/chicago-area-terminal-soon-to-offer-biodiesel.*

[51] Report to the Legislature, Annual Report on Biodiesel, Minnesota Department of Agriculture, January 15, 2011. *http://www.mda.state.mn.us/en/news/government/~/media/Files/news/govrelations/legrpt-biodiesel2011.ashx.*

[52] Colonial Pipeline began allowing shipment of 5% renewable diesel fuel blends beginning January 3, 2011. Colonial pipeline codes and specifications: *http://www.colpipe.com/pdfs/Sect%203%20Prod%20Spec%20Jan%201%202011%20update%20ver%202.pdf.*

[53] Renewable Fuel Standard Program (RFS2) Regulatory Impact Analysis, EPA–420–R–10–006, February 2010, Table 1.2–3.

[54] This is based on each tank truck carrying 7,800 gallons of renewable diesel fuel making 6 deliveries per day. We anticipate that the renewable diesel fuel will be blended directly into storage tanks containing petroleum-based diesel fuel.

[55] To manufacture a renewable diesel fuel blend at a petroleum terminal, renewable diesel fuel may be delivered directly into storage tanks that contain petroleum-based diesel fuel or injected into a petroleum-based diesel fuel stream during delivery into a tank truck or pipeline.

a reference case in which biodiesel volume was 380 mill gallons. These cases are shown in Table IV.C–1.

TABLE IV.C–1—PRIMARY REFERENCE AND CONTROL CASES FROM RFS2 FINAL RULEMAKING (BILLION GALLONS)

	Advanced biofuel						Non-advanced biofuel	Total renewable fuel
	Cellulosic biofuel		Biomass-based diesel		Other advanced biofuel			
	Cellulosic ethanol	Cellulosic diesel	FAME [a] biodiesel	NCRD [b]	Other biodiesel [c]	Imported ethanol	Corn ethanol	
Reference	0.25	0	0.38	0	0	0.64	12.29	13.56
Control	4.92	6.52	0.85	0.15	0.82	2.24	15.00	30.50

[a] Fatty acid methyl ester (FAME) biodiesel.
[b] Non-Co-processed Renewable Diesel (NCRD).
[c] Other Biodiesel is biodiesel produced in addition to the amount needed to meet the biomass-based diesel standard.

The biomass-based diesel volume of 1.82 bill gallons analyzed for 2022 in the RFS2 final rule is higher than the 1.28 bill gallons we chose to evaluate for today's NPRM for 2013. More importantly, the change in biodiesel production due to EISA mandates for biomass-based diesel plus other diesel anticipated to meet the advanced biofuel volume (a total increase of 1.44 billion gallons compared to the reference case without the EISA mandates) is much larger than the change we are evaluating for 2013 (0.28 billion gallons). Additionally, many of the impacts analyzed for the RFS2 final rule reflected the whole biofuel mandate, not the relatively smaller portion just due to biodiesel. Other changes in renewable fuels analyzed for 2022 were also larger than what would likely occur in 2013. Therefore, the impacts we would expect in 2013 compared to a case without RFS2 in place would likely be similar to or smaller than those we estimated for 2022. Given these considerations, we believe that the impacts assessments in the RFS2 final rule can be used to determine the directional impacts, and therefore the reasonableness, of a 1.28 billion gallon volume requirement for biomass-based diesel in 2013.

1. Climate Change

Since biodiesel has a GHG benefit exceeding 50% compared to the petroleum-based diesel it is replacing, an increase in biomass-based diesel of 0.28 Bill gal from 2012 to 2013 would lead to a displacement of conventional diesel fuel, with corresponding GHG emissions reductions. This increased use of biomass-based diesel will contribute to lower climate change impacts in comparison to the petroleum-based diesel it is replacing.

However, due to the nested nature of the RFS2 standards, biomass-based diesel is also used to meet the advanced biofuel standard. Moreover, both biomass-based diesel and advanced biofuel must meet a GHG reduction threshold of 50%. If the 2013 advanced biofuel standard were to remain at the 2.75 bill gal specified in the statute, an increase in the biomass-based diesel volume requirement from 1.0 to 1.28 bill gal would not change the total volume of advanced biofuel, and thus the total volume of biofuels that must meet a 50% reduction in GHGs would remain unchanged. Under such circumstances, a standard of 1.28 bill gal of biomass-based diesel would have essentially no impact on climate change in the context of the full mix of biofuels used to meet the RFS2 requirements.

2. Energy Security4

An analysis of the energy security impacts of the increased use of renewable fuels was conducted in support of the RFS2 rulemaking. Based on that analysis, increasing usage of renewable fuels including biomass-based diesel helps to reduce U.S. petroleum imports. A reduction of U.S. petroleum imports reduces both financial and strategic risks associated with a potential disruption in supply or a spike in cost of a particular energy source. This reduction in risks is a measure of improved U.S. energy security. In the RFS2 final rule, we described in detail the methodology and the Agency's estimate of the energy security impacts of the RFS2 rule. While EPA's analysis of energy security benefits of the RFS2 volumes considered the full volume of biofuels mandated by 2022 (of which biodiesel was only a part), the production of biodiesel is largely from domestic feedstocks. In contrast, the diesel fuel displaced is produced from petroleum sources which are increasingly from foreign sources. Therefore biodiesel production and use will contribute to a U.S. energy security benefit.

3. Agricultural Commodities and Food Prices

For the RFS2 rule, we examined the impacts of increased renewable fuels production on commodity prices, food prices and trade in agricultural products. This analysis considered the impacts of all the biofuel feedstock sources anticipated to meet the 2022 biofuel volume requirements, not just biodiesel. For the RFS2, EPA used two primary models for its agricultural economic impacts analysis, the Food and Agriculture Sector Optimization Model (FASOM), and the Food and Agricultural Policy Research Institute-Center for Agriculture and Rural Development (FAPRI–CARD) models. The FASOM model is a long-term economic model of the U.S. forest and agriculture sectors that maximizes the net present value of the sum of producer and consumer surplus across the two sectors over time subject to market, technology, and other constraints. The FAPRI–CARD models are a system of econometric models covering many agricultural commodities in the U.S. and internationally. They are based on historical data analysis, current academic research, and a reliance on accepted economic, agronomic, and biological relationships in agricultural production and markets.[56]

To meet the RFS2 renewable fuel volumes, a number of price effects on the agricultural commodities were estimated for 2022. For instance, FASOM estimates that an increase in renewable fuel volumes to meet the RFS2 would result in an increase in the U.S. soybean prices of $1.02 per bushel (10.3 percent) above the Reference Case price in 2022. FASOM also projected the price of soybean oil would increase by $183 per ton (37.9 percent) over the 2022 Reference Case price (all prices are

[56] (Add reference to FAPRI description document used in RFS2 FRM.)

in 2007$). Most of the additional soybeans needed for increased biodiesel production are diverted from U.S. exports to the rest of the world. In FASOM, soybean exports decrease by 135 million bushels (−13.6 percent) in 2022 relative to the AEO2007 Reference Case. This change represents a decrease of $453 million (−4.6 percent) in the total value of U.S. soybean exports in 2022. However, these price effects are not attributed to the demand for biodiesel feedstocks alone, rather the compounding affect of all changes in feedstock demand estimated to result from the total biofuel mandate in 2022. Since the impact on soybeans due to biodiesel demand was only a portion of this total feedstock impact and since the impact in 2013 will be less than considered in 2022 (since the 2013 biodiesel volumes anticipated are less than those for 2022), the impact on soybean prices and exports from an increase to 1.28 bill gall in 2013 could also be less.

A recent report by IHS Global Insight [57] also discusses potential agricultural and economic impacts from increasing vegetable oil demand for biodiesel production. According to this study, existing soybean yield technologies are expected to be applied increasingly across the U.S., resulting in roughly a 10% higher growth rate in soybean yields than USDA's projections from 2010–2016 which were used by EPA in its RFS2 analyses. Similarly, Global Insight predicts these higher yield technologies to be implemented in other large soybean-producing countries, such as Brazil and Argentina. If higher yields than modeled for RFS2 indeed are realized, then it is likely the price increases for soybean oil will be less than estimated for RFS2. Likewise, other price impacts, such as those on food prices, would still move in the same direction (*i.e.,* an increase in price resulting from an increase in demand) but could be smaller than in the RFS2 analysis.

For the analyses performed for the RFS2 final rule, EPA estimated a $10 per person per year increase in food costs due to the total annual impact of the RFS2 program by 2022 compared to a Reference case that assumed no RFS2 renewable fuel requirements. Again, the biodiesel impacts would represent only a small portion of these overall impacts and would like be even smaller in 2013 due to the smaller volume of feedstock required.

4. Air Quality

This section discusses our assessment of the impacts of 1.28 bill gal of biomass-based diesel on emissions and air quality. We are relying on the analyses of renewable fuel impacts conducted in support of the RFS2 rule [58] to qualitatively discuss the expected impacts of this biomass-based diesel volume. The RFS2 analyses reflect EPA's most current assumptions regarding biodiesel emission impacts.[59]

In the RFS2 rule, we analyzed both changes in pollutant emissions (measured in tons) and changes in ambient air quality associated with the changes in pollutant emissions. The changes in pollutant emissions were calculated by comparing the 2022 RFS2 renewable fuel volumes to volumes if the RFS2 mandate was not in place (the reference scenario).[60] The analysis reflected full implementation of the RFS2 program in 2022 and accounted for impacts from multiple types of renewable fuels, of which biodiesel was only one type. Specifically, the RFS2 emissions inventory analysis assumed 1.82 bill gal of biodiesel in the RFS2 scenario compared to 0.38 bill gal of biodiesel in the reference scenario, reflecting a 1.44 bill gal increase in biodiesel with the rule in place.

Biodiesel emission impacts from the RFS2 rule emissions inventory analysis are presented in Table IV.C.4–1. A complete discussion of the emissions inventory analysis conducted for the RFS2 rule can be found in Chapter 3 of the RFS2 Regulatory Impact Analysis (RIA).[61] These biomass-based diesel emission impacts, which reflect a 1.44 bill gal increase in biodiesel, are all less than 1% of the total U.S. emissions inventory for each pollutant. We expect the impacts of the 1.28 bill gal of biomass-based diesel, as compared to the 1.0 bill gal statutory minimum volume, to be smaller.

TABLE IV.C.4–1—BIODIESEL EMISSION IMPACTS OF THE RFS2 RENEWABLE FUEL VOLUMES (1.82 BILL GAL) RELATIVE TO THE REFERENCE CASE (0.38 BILL GAL)

	Biodiesel impacts of RFS2 rule emissions inventory analysis (Δ 1.44 bill gal Biodiesel)			Percent RFS2 total U.S. inventory
	Upstream [a] (tons)	Downstream [b] (tons)	Total (tons)	
VOC	−1,049	−2,422	−3,471	−0.03%
CO	913	−4,104	−3,191	−0.01%
NOx	−290	1,346	1,056	0.01%
PM10	4,268	−569	3,699	0.10%
PM2.5	632	−315	317	0.01%
SO2	1,580	0	1,580	0.02%
NH3	4,171	0	4,171	0.10%
Benzene	10	−30	−20	−0.01%
Ethanol	0	0	0	0.00%
1,3-Butadiene	0	−16	−17	−0.10%
Acetaldehyde	2	−66	−65	−0.14%
Formaldehyde	1	−182	−181	−0.21%
Naphthalene	−1	0	−1	−0.01%

[57] ''Biodiesel Production Prospects for the Next Decade,'' IHS Global Insight, March 11, 2011.

[58] 75 FR 14670, March 26, 2010.

[59] U.S. EPA 2010, Renewable Fuel Standard Program (RFS2) Regulatory Impact Analysis. EPA–420–R–10–006. February 2010. Docket EPA–HQ–OAR–2009–0472–11332. Section 3.1.1.2.4

[60] In the RFS2 Regulatory Impact Analysis, we analyzed the mandated 2022 RFS2 renewable fuel volumes relative to volumes required by two reference scenarios: RFS1 mandate (7.1 billion gallons of renewable fuels) and AEO 2007 (13.6 billion gallons of renewable fuels). Both reference scenarios assumed the same volume of biodiesel, so the emission and air quality impacts described in this section are the same for both reference scenarios.

[61] U.S. EPA 2010, Renewable Fuel Standard Program (RFS2) Regulatory Impact Analysis. EPA–420–R–10–006. February 2010. Docket EPA–HQ–OAR–2009–0472–11332.

TABLE IV.C.4–1—BIODIESEL EMISSION IMPACTS OF THE RFS2 RENEWABLE FUEL VOLUMES (1.82 BILL GAL) RELATIVE TO THE REFERENCE CASE (0.38 BILL GAL)—Continued

	Biodiesel impacts of RFS2 rule emissions inventory analysis (Δ 1.44 bill gal Biodiesel)			Percent RFS2 total U.S. inventory
	Upstream [a] (tons)	Downstream [b] (tons)	Total (tons)	
Acrolein	63	−9	54	0.84%

[a] U.S. EPA 2010, Renewable Fuel Standard Program (RFS2) Regulatory Impact Analysis. EPA–420–R–10–006. February 2010. Docket EPA–HQ–OAR–2009–0472–11332. Table 3.2–11. Note: units in Table 3.2–11 were mislabeled as tons/mmBTU. Actual units are tons.
[b] U.S. EPA 2010, Renewable Fuel Standard Program (RFS2) Regulatory Impact Analysis. EPA–420–R–10–006. February 2010. Docket EPA–HQ–OAR–2009–0472–11332. Table 3.2–9.

The air quality analysis for the RFS2 rule used photochemical modeling to characterize primary pollutants that are emitted directly into the atmosphere and secondary pollutants that are formed as a result of complex chemical reactions within the atmosphere. Included in the air quality modeling scenarios for the RFS2 rule were large volumes of ethanol as well as other renewable fuels, and the nature of these complex chemical interactions makes it difficult to determine the air quality impacts of biodiesel alone. Specifically, the RFS2 air quality analysis reflects a roughly 21 bill gal increase in ethanol, far outweighing the volume increase in biodiesel (0.43 bill gal). A complete discussion of the RFS2 air quality analysis and its limitations can be found in Chapter 3 of the RFS2 Regulatory Impact Analysis (RIA).[62]

The RFS2 air quality analysis was completed earlier than the final emissions inventory analysis because of the length of time needed to conduct photochemical modeling.[63] The air quality analysis assumed 0.81 bill gal of biodiesel in the RFS2 scenario compared to 0.38 bill gal of biodiesel in the reference scenario, reflecting a 0.43 bill gal increase in biodiesel use with the rule in place.

Given the small emissions impact of a 0.43 bill gal increase in biodiesel on the total U.S. emissions inventory (the basis for our air quality modeling scenarios), we would expect the portion of air quality impacts attributable to a move from 1.0 to 1.28 bill gal (a 0.28 bill gal biodiesel increase) to be small enough that on a nationwide basis the air quality impact would likely not be noticeable.

We note that Clean Air Act section 211(v) requires EPA to analyze and mitigate, to the greatest extent achievable, adverse air quality impacts of the renewable fuels required by the RFS2 rule. We intend to address any potential adverse impacts from increased renewable fuel use through that study and will promulgate appropriate mitigation measures separate from today's NPRM.

5. Transportation Fuel Cost

For the RFS2 final rulemaking, we estimated the year-by-year per-gallon costs for diesel fuel due to the RFS2 biofuel requirements. For 2013, we based our diesel fuel cost estimate on the production and use of biodiesel, renewable diesel fuel and some cellulosic diesel fuel. The unsubsidized cost increase is 0.2 cents per gallon, but accounting for the subsidy, we estimated a cost savings to consumers for diesel fuel of 1.7 cents per gallon. This assumes a crude oil price of 81 dollars per barrel, which is within the range of crude oil prices over the last several years which have ranged from $35 per barrel to $147 per barrel.

6. Deliverability and Transport Costs of Materials, Goods, and Products Other Than Renewable Fuel

EPA evaluated in the RFS2 final rule the impacts on the U.S. transportation network from the distribution of the total additional volume of biofuels that would be used to meet the RFS2 standards. Oakridge National Laboratory (ORNL) conducted an analysis of biofuel transportation activity from production plants to petroleum terminals by rail, barge, and tank truck to identify potential distribution constraints to help support the assessment in the RFS2 final rule.[64] The ORNL analysis concluded that the increase in biofuel shipments due to the RFS2 standards would have a minimal impact on U.S. transportation infrastructure. The majority of biofuel transportation is projected to be accomplished by rail. Nevertheless, it was estimated that the biofuels transport would constitute only 0.4% of the total freight tonnage for all commodities transported by the rail system through 2022.[65] Given the small increase in freight shipments due to the transport of biofuels to meet the RFS2 standards, we believe that the distribution of biofuels will not adversely impact the deliverability and transport costs of materials, goods, and products other than renewable fuels.

7. Wetlands, Ecosystems, and Wildlife Habitats

As directed by CAA section 211(o)(2)(B)(ii), in setting the 2013 biodiesel volume requirements, EPA is to consider the impacts of biodiesel production and use on wetlands, ecosystems and wildlife habitat.

The most complete and up-to-date assessment of these impacts is contained in the draft analysis prepared by EPA in response to the requirements set out in CAA section 204. This report has been released in draft form in order to allow interested parties to provide comments on the analyses and policy implications. Concluding this review and the peer review, updates will be made to the report, and then the final report will be published in 2012 on the EPA Biofuels Web site. Nevertheless, since this draft report includes an assessment of the impact of biofuels on a number of the areas that we are required to analyze in the process of determining the 2013 biomass-based

[62] U.S. EPA 2010, Renewable Fuel Standard Program (RFS2) Regulatory Impact Analysis. EPA–420–R–10–006. February 2010. Docket EPA–HQ–OAR–2009–0472–11332.

[63] Emissions serve as inputs to the air quality modeling analysis. However, the final fuel volume assumptions (upon which the emission estimates were based) increased between the time that emissions were estimated to support the air quality modeling analysis and the time emissions were estimated to reflect the final rulemaking.

[64] ''Analysis of Fuel Ethanol Transportation Activity and Potential Distribution Constraints'', Oakridge National Laboratory, March 9, 2009. To simplify the ORNL analysis, biomass-based diesel volumes were assumed to originate at the same points of production and to be shipped to the same petroleum terminals as the ethanol projected to be used to meet the RFS2 standards. This may tend to overstate the potential impact on the transportation system from the shipment of biomass-based diesel fuels since biomass-based diesel production plants were projected to be more geographically dispersed than ethanol production facilities. In any event, the simplifying assumption was assessed to have little impact on the results from the analysis given that biomass-based diesel represented only 8% of the total projected biofuel volumes.

[65] See sections 1.6.4 and 1.6.5 of the RFS2 RIA.

diesel volume, we believe it is appropriate to make use of this information as it represents the most current EPA assessments available.[66]

This draft report relies on information available as of July 2010. The report does not attempt to quantify the impacts of biofuel production and use as these impacts are dependent on local or regional conditions. Nevertheless the draft provides qualitative assessments and reasonable expectations of trends which can be used to consider the environmental impacts of increases in biodiesel production and use. These trends are only summarized here while the draft report provides extensive detail.

The draft assessment focuses on the use of oil from soy beans as the feedstock for biodiesel production. Other oil seed feedstock sources represent a very small portion of biofuel production in 2013 so would be expected to have much less of an impact than soy oil. Corn oil extracted during the ethanol production process is increasing, adds a very small increment of process GHG and will offset demands for soy and other oil seed crops, thus reducing potential agricultural impact of biodiesel production and adding to the net reduction in GHG emissions. Finally, waste fats, oils and greases would be expected to have negligible environmental impact as a feedstock since they do not impact agricultural land use and would otherwise be used for some lower value purpose or simply discarded.

Wetlands can be adversely affected by agricultural production through runoff that can result in nutrient loading (particularly from fertilizers) or from sedimentation (from erosion). Soy production tends to use less fertilizer than corn production (the most likely alternative crop) and can reduce the amount of fertilizer required for corn when planted in rotation with corn. However, compared to other crops, erosion can be higher from fields planted in row crops such as corn and soy beans. While the impacts of nutrient loading and erosion tend to be site specific, good farming practices including the optimum fertilizer use and the set aside of sensitive lands via the CRP program can significantly help control these adverse affects. Wetlands can also be adversely affected through diversion of surface and ground water for agricultural irrigation. Soy bean production less frequently relies on irrigation than corn and some other crops. More discussion on water usage is included below in the section on water use and water quality impacts.

Ecosystems and wildlife habitat can be adversely affected if CRP lands are converted to crop production, if row crops such as soy beans replace grassy crops and in general if new lands with diverse vegetation are converted to crop production. As noted in the RFS2 rule, we do not expect the RFS program production to result in an increase in total acres of agricultural land under production in the US compared to a reference case without the impact of the RFS2 volumes. The relatively small increase of 0.28 bill gall should not appreciably affect the amount of land devoted to oil seed production. Further, since soy beans are traditionally planted in rotation with other crops such as corn, this small increase in soy oil demand for biodiesel production is unlikely to replace grassy crops or result in the indirect increase in land under crop production. Additionally, the USDA commitment to support the CRP program should minimize the likelihood of any significant change in the amount of CRP land. Therefore, while some very local changes may result due to an individual farmer's planting decisions, since no new crop land are expected in the U.S. due to this increase in biodiesel production and sensitive lands will be protected via programs such as CRP, no measureable impact in aggregate ecosystems or wildlife habitat is expected.

8. Water Quality and Quantity

The water quality and quantity impacts of biodiesel are primarily related to the type of feedstock and the production practices used to both produce the feedstock and to convert the feedstock into biodiesel. Soybeans are the principal feedstock used for biodiesel production and are predicted to account for 600 million gallons of the 1.28 billion gallons evaluated for 2013. Non-food grade corn oil extracted during ethanol production, animal fats and recycled fats account for most of the remaining biodiesel feedstocks. Since these fats are the byproduct of another use and not produced specifically for biodiesel manufacture and since corn oil extracted is a by-product of corn ethanol production, this analysis will focus on soybeans.

From a water quality perspective, the primary pollutants of concern from soybean production are fertilizers (nitrogen and phosphorus) and sediment. There are three major pathways for these potential pollutants to reach water from agricultural lands: runoff from the land's surface, subsurface tile drains, or leaching to ground water. Climate, hydrological, and management factors influence the potential for these contaminants to reach water from agricultural lands.

a. Impacts on Water Quality and Water Quantity Associated With Soybean Production

After corn, soybeans are the second largest agricultural crop in terms of acreage in the U.S. As with the production of any agricultural crop, the impact on water quality depends on a variety of factors including production practices, use of conservation practices and crop rotations by farmers, and acreage and intensity of tile drained lands. Additional factors outside agricultural producers' control include soil characteristics, climate, and proximity to water bodies.

Soybeans are typically grown in the same locations as corn since farmers commonly rotate between the two crops. In 2005, the latest year for which USDA collected data, the U.S. average nitrogen fertilization rate for soybeans was 16 pounds per acre. In contrast, the average nitrogen fertilization rate for corn was 138 pounds per acre.[67] Soybeans fix nitrogen, so they do not require substantial added fertilizer for adequate yields. Only 18 percent of soybean acres are fertilized with nitrogen compared to 96 percent of corn acres.[68] Since significantly less nitrogen fertilizer is applied to soybeans, less nitrogen is available for runoff or leaching into water. Water quality generally benefits when soybeans are rotated with corn, since the next corn crop requires less fertilizer and fewer pesticides. Therefore, crop rotation is one practice that is part of an effective system to limit water quality impacts. However, soybeans have less residue remaining on the field after harvest compared to corn, so sediment runoff could be more of a concern.

Agricultural conservation systems can reduce the impact of soybean production on the environment. The systems components include (1) controlled application of nutrients and pesticides through proper rate, timing, and method of application, (2) controlling erosion in the field (*i.e.,*

[66] U.S. EPA. Biofuels and the Environment: the First Triennial Report to Congress (External Review Draft). U.S. Environmental Protection Agency, Washington, DC, EPA/600/R–10/183A, 2011. *http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=217443.*

[67] U.S. Department of Agriculture, Economic Research Service. Fertilizer Use and Price. *http://www.ers.usda.gov/Data/FertilizerUse.*

[68] U. S. Department of Agriculture, National Agricultural Statistics Service. 2007. Agricultural chemical usage 2006 field crops summary. Available at: *http://usda.mannlib.cornell.edu/usda/nass/AgriChemUsFC//2000s/2007/AgriChemUsFC-627 05–16–2007_revision.pdf.*

reduced tillage, terraces, or grassed waterways), and (3) trapping losses of soil and fertilizer runoff at the edge of fields or in fields through practices such as cover crops, riparian buffers, controlled drainage for tile drains, and constructed/restored wetlands.[69]

The effectiveness of conservation practices, however, depends upon their adoption. The USDA's Conservation Effects Assessment Project (CEAP) quantified the effects of conservation practices used on cultivated cropland in the Upper Mississippi River Basin. It found that, while erosion control practices are commonly used, there is considerably less adoption of proper nutrient management to mitigate nitrogen loss to water bodies.[70] However, as noted above, the relatively low amount of fertilizer used for soy bean production tends to lessen the potential for nitrogen loss to water bodies

Water for soybean cultivation predominately comes from rainfall, although about 11 percent of soybean acres in the U.S. are irrigated.[71] Water use for irrigated soybean production in the U.S. varies from 0.2 acre-feet per acre in Pennsylvania to about 1.4 acre-feet per acre in Colorado, with a national average of 0.8 acre-feet of water.[72]

b. Impacts on Water Quality and Water Quantity Associated With Biodiesel Production

Biological oxygen demand (BOD), total suspended solids, and glycerin pose the major water quality concerns in wastewater discharged from biodiesel facilities. Actual impacts depend on a range of factors, including the type of feedstock processed, biorefinery technology, effluent controls, and water re-use/recycling practices, as well as the facility location and source and receiving water.

Despite the existing commercial market for glycerin and the likely expanded uses for glycerin as discussed in the RFS2 final rule, the rapid development of the biodiesel industry has caused a temporary glut of glycerin production, resulting in some instances of facilities disposing glycerin. Glycerin disposal may be regulated under several EPA programs, depending on the practice. However, there have been incidences of glycerin dumping, including an incident in Missouri that resulted in a large fish kill.[73] Some biodiesel facilities discharge their wastewater to municipal wastewater treatment systems for treatment and discharge. There have been several cases of municipal wastewater treatment plant upsets due to high BOD loadings from releases of glycerin.[74] To mitigate wastewater issues, some production systems reclaim glycerin from the wastewater. Closed-loop systems in which water and solvents can be recycled and reused can reduce the quantity of water that must be pretreated before discharge.

Biodiesel can also impact water bodies as a result of spills. However, biodiesel degrades approximately four times faster than petroleum diesel including in aquatic environments.[75] Results of aquatic toxicity testing of biodiesel indicate that it is less toxic than regular diesel.[76] Biodiesel does have a high oxygen demand in aquatic environments, and can cause fish kills as a result of oxygen depletion. Water quality impacts associated with spills at biodiesel facilities generally result from discharge of glycerin, rather than biodiesel itself.

Biodiesel facilities use much less water than ethanol facilities to produce biofuel. The primary consumptive water use at biodiesel plants is associated with washing and evaporative processes. Water use is variable, but is usually less than one gallon of water for each gallon of biodiesel produced; some facilities recycle wash water, which reduces overall water consumption.[77]

9. Job Creation and Rural Economic Development

The RFS2 is anticipated to increase employment and spur income expansion in rural areas and farming communities. Income expansion in rural areas from renewable fuel production will contribute to rural economic development. As mentioned above, industry activities are currently progressing to ramp up biodiesel consumption from the approximately 380 mill gallons estimated to be used in the U.S. in 2010 to the 800 mill gallons that is estimated to be used in 2011 to meet the RFS2 biomass-based diesel volume requirement. In addition, it is anticipated that biodiesel production capacity idled due to lack of demand will be brought back on line as biodiesel volumes ramp up. Also, expansions to the fuel distribution infrastructure (*i.e.,* more fuel terminals, rail cars, tank trucks, barges *etc.*) will be needed to support the use of 1 bill gal/yr of biodiesel in 2012 and 1.28 bill gal/yr in 2013 based on the analysis conducted for the RFS2 final rule.[78] Bringing online idle biodiesel plants and expanding biodiesel distribution infrastructure in the U.S. will increase both employment and promote rural economic development. These increases in employment are similar to what EPA anticipated when it analyzed the RFS2 rule.

D. Proposed 2013 Volume for Biomass-Based Diesel

We are proposing an applicable volume of 1.28 bill gal biomass-based diesel for 2013, consistent with our projection for 2103 in the RFS2 final rule. The 0.28 bill gal increment over the 2012 applicable volume that is reflected in this proposal does not deviate substantially from the trend in annual increments that Congress established in specifying applicable volumes for biomass-based diesel for 2009 through 2012. As noted in Section IV.B, because we are not proposing to change the 2013 advanced biofuel applicable volume in this rulemaking, we have used the 2.75 bill gallon applicable volume for the analyses in today's proposal. Given an advanced biofuel applicable volume of 2.75 bill gallons for 2013, the proposed 1.28 bill gal biomass-based diesel volume requirement is not expected to force any additional biomass-based diesel

[69] Dinnes, DL; Karlen, DL; Jaynes, DB; Kaspar, TC; Hatfield, JL; Colvin, TS; Cambardella, CA. 220 2002. Nitrogen management strategies to reduce nitrate leaching in tile-drained 221 midwestern soils. Agronomy Journal 94(1): 153–171.

[70] U.S. Department of Agriculture, National Resources Conservation Service. 2010. Assessment of the effects of conservation practices on cultivated cropland in the Upper Mississippi River Basin. Available at: *http://www.nrcs.usda.gov/technical/NRI/ceap/umrb/index.html.*

[71] U.S. Department of Agriculture. 2010. 2007 Census of agriculture, Farm and ranch irrigation survey (2008). *http://www.agcensus.usda.gov/Publications/2007/Online_Highlights/Farm_and_Ranch_Irrigation_Survey/fris08.pdf.*

[72] U. S. Department of Energy. 2006. Energy demands on water resources: Report to Congress on the interdependency of energy and water. Available at: *http://www.sandia.gov/energy-water/docs/121-RptToCongress-EWwEIAcomments-FINAL.pdf.*

[73] U.S. EPA. 2010b. Renewable fuel standard program (RFS2) regulatory impact analysis. EPA–420–R–10–006. Available at: *http://www.epa.gov/otaq/renewablefuels/420r10006.pdf.*

[74] U.S. EPA. 2010b. Renewable fuel standard program (RFS2) regulatory impact analysis. EPA–420–R–10–006. Available at: *http://www.epa.gov/otaq/renewablefuels/420r10006.pdf.*

[75] Kimble, J. n.d. Biofuels and emerging issues for emergency responders. U.S. EPA. Available at: *http://www.epa.gov/oem/docs/oil/fss/fss09/kimblebiofuels.pdf.*

[76] Kahn, N; Warith, MA; Luk, G. 2007. A comparison of acute toxicity of biodiesel, biodiesel blends, and diesel on aquatic organisms. Journal of the Air and Waste Management Association 57(3): 286–296.

[77] Renewable Fuels Standard Program (RFS2), Regulatory Impact Analysis (RIA). EPA–420–R–10–006. Available at: *http://www.epa.gov/otaq/renewablefuels/420r10006.pdf.*

[78] Renewable Fuels Standard Program (RFS2), Regulatory Impact Analysis (RIA), EPA–420–R–10–006, February 2010. Available at: *http://www.epa.gov/otaq/renewablefuels/420r10006.pdf.*

volumes into the market in 2013. As a result, the increase in biomass-based diesel from the statutory minimum of 1.0 bill gal to 1.28 bill gal could be seen as not having any impact beyond what is anticipated to result from meeting the current 2.75 bill gal advanced biofuel applicable volume.

However, compared to a reference case without the RFS2 mandates, 1.28 bill gal of biomass-based diesel will lead to displacement of fossil-based fuel, which will result in reduced GHG emissions from the transportation sector and increased energy security. There are likely to be some negative consequences associated with increased air and water pollution, increased food prices, impacts to wetlands, *etc.,* as discussed above. However, EPA does not believe that these impacts outweigh the benefits of moving to an applicable volume of 1.28 bill gal for 2013. By requiring somewhat more biomass based diesel use in 2013 than the statutory minimum, we are also making it more likely that we will not need to modify the advanced biofuel mandate in 2013 and, therefore, that the Congressional goal for advanced biofuel use in 2013 can either be satisfied, or at least come closer to satisfaction. EPA solicits comment on all issues related to this proposal.

E. 2014 and Beyond

EPA is directed under CAA 211(o)(2) to determine the required biomass-based diesel volumes no less than 14 months ahead of the first year that they would be applicable, and thus we could propose biomass-based diesel volumes for 2014 and beyond in today's NPRM. Doing so would provide certainty for the industry and stability for future investments and contracts. However, we are not proposing biomass-based diesel standards for 2014 and beyond in today's NPRM since we believe we will be in a better position in the future to evaluate all of the factors related to establishing an applicable volume for 2014 and later years.

We are aware of two sources that provide projections of biomass-based diesel for years after 2013: the RFS2 final rulemaking, and a recent report released by the IHS Global Insight.[79] The projections from both of these sources are shown in Table IV.E–1

TABLE IV.E–1—PROJECTIONS OF BIOMASS-BASED DIESEL AFTER 2012 (BILL GALLONS)

	RFS2 final rule	IHS global insight report
2013	1.28	1.34
2014	1.39	1.50
2015	1.53	1.81
2016	1.56	2.18
2017	1.60	2.53
2018	1.64	2.74
2019	1.68	3.00
2020	1.72	3.14
2021	1.77	3.23
2022	1.82	3.30

We will consider these and other sources when we determine the required biomass-based diesel volumes for 2014 and beyond, whether in this or a future rulemaking.

V. Proposed Changes to RFS2 Regulations

As the RFS2 program got underway in the second half of 2010, we discovered that a number of regulatory provisions were causing confusion among regulated parties. In some cases the confusion was due to a lack of specificity in terms, while in others it was due to unique circumstances that were not sufficiently addressed in the RFS2 regulations. A few amendments are being proposed in order to correct regulatory language that inadvertently misrepresented our intent as reflected in the preamble to the final RFS2 regulations. Finally, as we have worked with regulated parties to ensure that the RFS program is operating as intended, we identified areas in the regulations that could benefit from clarification and/or streamlining. We also identified one provision in the gasoline benzene regulations that misrepresented our intent as stated in the preamble. As a result, we are proposing a number of amendments to the RFS regulations, and one amendment to the gasoline benzene regulations, in 40 CFR part 80.

A. Summary of Amendments

Below is a table listing the provisions that we are proposing to amend in today's action. We have provided additional explanation for several of these amendments in Sections V.B through V.F below.

TABLE V.A–1—SUMMARY OF TECHNICAL AMENDMENTS

Section	Description
80.1275(d)(3)	Removed to allow for the inclusion of transferred blendstocks in the calculation of benzene early credits.
80.1401	Amended definition of ''annual cover crop'' to clarify that the crop has no existing market to which it can be sold except for its use as feedstock for the production of renewable fuel.
80.1401	Amended definition of ''naphtha'' to clarify that it applies to hydrocarbons only, must be commonly or commercially known as naphtha, and is used for producing gasoline.
80.1405(a), (b), and (d)	Amended to state the standards for 2012 and the date of the annual standards calculation.
80.1405(c)	Amended terms ''GE_i'' and ''DE_i'' to reference the amount of gasoline and/or diesel produced by small refineries and small refiners that are exempt pursuant to §§ 80.1441 and 80.1442.
80.1415(c)(2)	Amended to state the specific requirements needed for technical justifications for applications for Equivalence Values.
80.1426, Table 1	Amended to add ID letters to pathways to facilitate references to specific pathways and to change the reference to ''canola'' to ''canola/rapeseed''.
80.1426(f)(1)	Corrected typographical error in cross reference to paragraph (f)(6) of § 80.1426.
80.1426(f)(5)(ii)	Amended requirements so that the separated yard waste plans and separated food waste plans need not be approved by EPA, but instead only need to be accepted by EPA under the registration provisions.
80.1429(b)(2)	Amended to clarify that ''fossil-based'' diesel fuel is different from renewable diesel fuel.
80.1429(b)(9)	Amended to include RIN separation limitations on parties whose non-export RVOs are solely related to imports of gasoline and diesel or the use of blendstocks to produce gasoline or diesel.
80.1449(a)	Amended Production Outlook Report due date; added allowance for unregistered renewable fuel producers and importers to submit Production Outlook Reports.

[79] ''Biodiesel Production Prospects for the Next Decade,'' IHS Global Insight, March 11, 2011.

TABLE V.A–1—SUMMARY OF TECHNICAL AMENDMENTS—Continued

Section	Description
80.1450(b)(1)(vi)	Amended to require submission of additional evidence as part of registration to verify eligibility for exemptions in § 80.1403(c) or (d).
80.1450(d)(1)–(d)(3)	Amended to add more specificity on when updates, addenda, or resubmittals are required for engineering reviews and to include references to foreign ethanol producers.
80.1451(a)(1)(xi)	Amended to clarify that this section references RFS1 RINs retired for compliance.
80.1452(b)(2)	Corrected typographical error.
80.1452(b)(4)	Amended to clarify that a RIN-generating importer must submit to EMTS the EPA facility registration number of the facility at which the renewable fuel producer or foreign ethanol producer produced the batch.
§ 80.1452(b)(5)	Amended to clarify that for imports of renewable fuel, the RIN-generator must submit to EMTS the EPA facility registration number of the importer that imported the batch.
80.1460(b)(6)	Added to clarify that RINs cannot be generated more than once for a single batch of renewable fuel.
80.1464(a)(2)(iii), (a)(2)(iv), (b)(2)(iii), (b)(2)(iv), (c)(1)(iii), and (c)(1)(iv).	Added to clarify that auditors must verify that product transfer documents for RIN transactions contain the required information for obligated parties/exporters and for renewable fuel producers/importers.
80.1464(a)(2)(i), (a)(3)(ii), (b)(2)(i), (b)(3)(ii)	Amended to clarify that auditors must validate RIN separations for obligated parties/exporters and for renewable fuel producers/importers; amended to correct typographical error.
80.1465(h)(2); 80.1466(h)(2); and 80.1467(e)(1), (e)(2), and (g)(2).	Amended to remove the option of using an alternative commitment in lieu of paying a bond and to clarify the amount of bond a foreign entity must post.

B. Technical Justification for Equivalence Value Application

A producer or importer of renewable fuels is required to submit an equivalence value (EV) application in accordance with § 80.1415(c) for any renewable fuel that does not have an EV listed in § 80.1415(b). In addition, a producer or importer could apply for an alternative EV if the producer or importer has reason to believe that a different EV than that listed in § 80.1415(b) is warranted. Section 80.1415(c) provides the calculation equation for the EV of the renewable fuel and the requirements for the technical justification to be submitted in the EV application.

We have received many inquiries from producers and importers of renewable fuels requesting clarification of the specific requirements for the technical justification listed in § 80.1415(c). In addition, based on the many EV applications we have evaluated, we have found that we needed to request additional information from producers and importers to better understand the composition of the renewable fuel they produced, such as intermediate steps and energy inputs in production process, sources of renewable and non-renewable feedstock, and so forth, to better evaluate and assign the correct EV to the producer or importer's renewable fuel.

Therefore, we are proposing to amend § 80.1415(c)(2) to provide clarification to the current requirements and to include additional requirements for the technical justification to be submitted in the EV application. The proposed amendments to § 80.1415(c)(2) include:

—A calculation for the requested equivalence value according to the equation in § 80.1415(c)(1), including supporting documentation for the energy content (EC) of the renewable fuel such as a certificate of analysis from a laboratory that verifies the lower heating value in Btu per gallon of the renewable fuel produced.
—For each feedstock, component or additive used to make the renewable fuel, provide a description, the percent input and identify whether or not it is renewable biomass or is derived from renewable biomass.
—For each feedstock that could independently qualify as a renewable fuel, state whether or not RINs have been previously generated for the feedstock.
—A description of renewable fuel and the production process, including a block diagram that shows quantities of all inputs and outputs required at each step of the production process for the production of one batch of renewable fuel.

C. Changes to Definitions of Terms

1. Definition of Annual Cover Crop

As explained in the preamble of the RFS2 final rulemaking, EPA extended modeling for cellulosic biofuel made from corn stover and biodiesel/renewable diesel made from waste oils/fats/greases to annual cover crops, based on the expectation that cultivation of annual cover crops, as defined in § 80.1401, will have little impact on the agricultural commodity markets and therefore little or no land use impact associated with them. Therefore, certain fuels (as specified in Table 1 to § 80.1426) derived from annual cover crop feedstocks qualify for D-codes under the advanced biofuel, biomass-based diesel, and cellulosic renewable fuel categories.

Section 80.1401 of the final RFS2 rule defines ''annual cover crop.'' We are proposing to amend the definition of annual cover crop in order to more clearly define those feedstocks that meet the intent of including cover crops in several pathways in Table 1 to § 80.1426.

In order to extend our modeling to cover crops, we used the rationale that annual cover crops would have no land use impact since they are planted on land otherwise used for crop production. Greenhouse gas emissions would only be associated with growing, harvesting and transporting the cover crop, and then processing into biofuel. (See 75 FR 14794 col. 3.) Thus, we assumed that no additional land would be required to plant annual cover crops, that cover crops would not displace primary crop production, and that the use of the cover crop as a feedstock for renewable fuels would not have secondary impacts on other agricultural commodity markets. This implies that annual cover crops would not be planted and harvested for the purpose of being sold to existing markets. If a cover crop already had an existing market, then the increased use of cover crops as feedstocks for renewable fuel production could potentially impact the existing markets. Therefore, we propose to amend the current definition for ''annual cover crop'' to clarify that for purposes of the RFS program the term only includes crops that have no existing market to which they can be sold except for the use of the feedstock

for renewable fuel. This will ensure that no unintended land use or significant indirect effects result from the use of annual cover crops as feedstocks for renewable fuel production.

EPA recognizes that there may be additional fuel pathways requiring lifecycle greenhouse gas (GHG) assessments and the assignment of appropriate RIN D–Codes, including those using feedstocks that do not meet the proposed amended definition of annual cover crop. For further guidance on the process for requesting EPA evaluation of new fuel pathways, please refer to the following sites:

http://www.epa.gov/otaq/fuels/renewablefuels/compliancehelp/rfs2-lca-pathways.htm.

http://www.epa.gov/otaq/fuels/renewablefuels/compliancehelp/lca-petition-instructions.htm#1.

2. Definition of ''Naphtha''

In the RFS2 final rule, we included several RIN-generating pathways in Table 1 for naphtha made from renewable biomass. We also provided a definition of naphtha in § 80.1401. However, the definition we finalized was overly broad and did not adequately represent our intent to limit naphtha to gasoline blendstocks. As a result, some biofuel producers have expressed interest in interpreting the term ''naphtha'' to include materials that, while falling within the boiling range of gasoline, are not used as a blendstock to produce gasoline.

To remedy this situation, we are proposing to revise the definition of naphtha to also specify that it applies only to blendstocks which are composed of only hydrocarbons, are commonly or commercially known as naphtha, and are used to produce gasoline.

D. Technical Amendments Related to RIN Generation and Separation

1. RIN Separation Limit for Obligated Parties

We propose to amend section 80.1429 to limit the amount of RINs a company who is an obligated party solely by virtue of importation of obligated fuel can separate to their Renewable Volume Obligation (RVO). This change would address the instance where a party may import a small amount of obligated volumes and then separate all the RINs that it owns. This change is designed to prevent abuse of the obligated party RIN separation provision by a company that imports a relatively small amount of an obligated volume, but then separates a large amount of RINs. The proposed provision is also designed to help prevent the hoarding of RINs by parties that do not need them for compliance purposes, and to generally increase liquidity of RINs.. EPA structured the original RFS1 separation regulations around facilitating compliance by obligated parties meeting their RVOs. The proposed change keeps with the original design and also ensures that importers can separate enough RINs to meet their obligations.

2. RIN Retirement Provision for Error Correction

In some instances, renewable fuel producers or importers may improperly generate RINs in EMTS as a result of calculation errors, meter malfunctions or clerical errors. Pursuant to § 80.1431(a), improperly generated RINs are invalid, and cannot be used to achieve compliance with any Renewable Volume Obligations (RVOs). The regulations also prohibit any party from creating or transferring invalid RINs. These invalid RIN provisions apply regardless of the good faith belief of a party that the RINs are valid. Because of the ''buyer beware'' aspect of the RIN program, RIN generators should take all appropriate actions to ensure that they are properly generating RINs, and all parties in the RIN distribution system should take all appropriate actions to ensure that they are not trading invalid RINs or using invalid RINs for compliance purposes.

The ''buyer beware'' aspect of the RIN program provides an important incentive for the regulated community to comply with the regulations. Although EPA believes that these self-policing mechanisms are a critical component of the RFS2 regulations, we seek comment on the possibility of amending § 80.1431 to provide the regulated community with limited flexibility to allow certain RINs that were improperly generated to nevertheless be transferred and used for compliance. We envision that this type of flexibility could reduce disruptions to the RIN market while, if appropriately limited, continuing to apply appropriate pressure on parties that generate, transfer and use RINs to comply with the regulations. Parties that improperly generate RINs would remain liable for generating invalid RINs.

We believe that the following general limitations should apply to any flexibility to allow improperly generated RINs to be transferred and used for compliance: (1) The RINs must have been improperly generated as a result of an inadvertent error, (2) the improperly generated RINs must have the correct D code, (3) the RIN generator must correct the information submitted to EMTS and retire an equivalent number and type of any excess RINs that were generated as a result of the error within fixed time period, (4) the flexibility to allow improperly generated RINs to be used for compliance would only apply if the number of excess RINs generated for a particular batch exceeds the number of RINs that should have been generated by some fixed percentage, and (5) the flexibility to allow improperly generated RINs to be used for compliance could not be repeatedly used by a renewable fuel producer.

We are seeking comment on whether EPA should amend the regulations to include this flexibility, whether the conditions set forth above are appropriate, and whether there are additional or alternative conditions that should be imposed if the flexibility is granted. We seek comment on specifying a 60-day time period for a RIN-generator to correct RIN information submitted to EMTS and limiting the availability of this flexibility to situations where the number of excess RINs generated for a particular batch exceeds the number of RINs that should have been generated by no more than 2%. In addition, we seek comment on the possibility of establishing a limit on the number of times this flexibility could be used within a compliance period by a given RIN generator. Such a limitation could encourage RIN generators to take appropriate measures to avoid generating invalid RINs, and limit the possibility that RIN generators would intentionally generate invalid RINs to take advantage of short term RIN price spikes. EPA seeks comment on all aspects of this proposal

3. Production Outlook Reports Submission Deadline

In the final RFS2 regulations, in § 80.1449(a), EPA set the annual deadline for submitting Production Outlook Reports as March 31 of each year. However, EPA has determined that, in order for the information contained in the Production Outlook Reports to be most useful when setting the RFS2 volume requirements and associated percentage standards for the following calendar year, the reports should contain the most accurate projections possible. Since the accuracy of projections tends to increase the closer those projections are made to the following calendar year, we believe that the March 31 deadline should be moved to June 1. This revised deadline would still allow the information contained in the Production Outlook Reports to be used in the development of the final

rulemaking setting the standards for the following year.

4. Attest Procedures

In the final RFS2 regulations, EPA required in § 80.1464(c)(1)(i) and (c)(2)(ii) that RIN owners conduct attest procedures for RIN transaction and RIN activity reports that involve RIN separations. This requirement was intended to be included in the attest procedures for obligated parties and exporters as well as for renewable fuel producers and RIN-generating importers, in order to confirm that RINs are being properly separated by all parties participating in the RIN market. Thus, today's rule proposes amendments to § 80.1464(a)(2)(i) and (a)(3)(ii) for obligated parties and exporters as well as to § 80.1464(b)(2)(i) and (3)(ii) for renewable fuel producers and RIN-generating importers to include attest procedures concerning verification of RIN separation.

Additionally, in the final RFS2 regulations, EPA required in § 80.1464 that auditors of RIN generation reports verify that product transfer documents (PTDs) include the required information. EPA believes it would be beneficial for auditors to verify the required information is present on PTDs for RIN transactions for all parties, including obligated parties, renewable fuel producers and importers and RIN owners. Thus, today's rule proposes amendments to § 80.1464(a)(2), (b)(2) and (c)(1) to require auditors to verify that the PTDs for a representative sample of RINs sold and purchased contains the information required in § 80.1453.

5. Treatment of Canola and Rapeseed

On September 28, 2010, EPA published a ''Supplemental Determination for Renewable Fuels Produced Under the Final RFS2 Program from Canola Oil'' (FR Vol. 75, No. 187, pg 59622–59634). We are proposing to clarify two aspects of the supplemental determination. First we propose to amend the regulatory language in Table 1 to 40 CFR 80.1426 to clarify that the currently-approved pathway for canola also applies more generally to rapeseed. While ''canola'' was specifically described as the feedstock evaluated in the supplemental determination, we had not intended the supplemental determination to cover just those varieties or sources of rapeseed that are identified as canola, but to all rapeseed. We currently interpret the reference to ''canola'' in Table 1 to 40 CFR 1426 to include any rapeseed. To eliminate ambiguity caused by the current language, however, we propose to replace the term ''canola'' in that table with the term ''canola/rapeseed''. Canola is a type of rapeseed. While the term ''canola'' is often used in the American continent and in Australia, the term ''rapeseed'' is often used in Europe and other countries to describe the same crop. We believe that this change will enhance the clarity of the regulations regarding the feedstocks that qualify under the approved canola biodiesel pathway.

Second, we wish to clarify that although the GHG emissions of producing fuels from canola feedstock grown in the U.S. and Canada was specifically modeled as the most likely source of canola (or rapeseed) oil used for biodiesel produced for sale and use in the U.S., we also intended that the approved pathway cover canola/rapeseed oil from other countries, and we interpret our regulations in that manner. We expect the vast majority of biodiesel used in the U.S. and produced from canola/rapeseed oil will come from U.S. and Canadian crops. Incidental amounts from crops produced in other nations will not impact our average GHG emissions for two reasons. First, our analyses considered world-wide impacts and thus considered canola/rapeseed crop production in other countries. Second, other countries most likely to be exporting canola/rapeseed or biodiesel product from canola/rapeseed are likely to be major producers which typically use similar cultivars and farming techniques. Therefore, GHG emissions from producing biodiesel with canola/rapeseed grown in other countries should be very similar to the GHG emissions we modeled for Canadian and U.S. canola, though they could be slightly (and insignificantly) higher or lower. At any rate, even if there were unexpected larger differences, EPA believes the small amounts of feedstock or fuel potentially coming from other countries will not impact our threshold analysis. Therefore, EPA interprets the approved canola pathway as covering canola/rapeseed regardless of country origin.

E. Technical Amendments Related to Registration

1. Construction Discontinuance & Completion Documentation

The registration requirements in § 80.1450(b)(1)(vi) state that for facilities claiming the exemption described in § 80.1403(c) or (d), evidence must be submitted demonstrating the date that construction commenced. However, the registration requirements do not explicitly require the submission of evidence demonstrating that they meet certain of the other requirements described in § 80.1403(c)(1) and (2) or (d)(1), (2) and (3).

In order to verify that facilities which claim to qualify for an exemption under § 80.1403(c) or (d) in fact meet all of the qualification requirements for such an exemption, we are proposing to amend § 80.1450(b)(1)(vi) to include requirements that the owner or operator of facilities claiming exemption under § 80.1403(c) submit evidence demonstrating that construction was not discontinued for a period of 18 months after construction began, and that construction was completed by December 19, 2010. Similarly, we are proposing that for facilities claiming the exemption under § 80.1403(d), evidence be submitted demonstrating that construction was not discontinued for a period of 18 months after construction began and that construction was completed within 36 months of the date that construction commenced.

In addition, we are proposing to add a general provision in (§ 80.1450(b)(1)(vi)(D) requiring the submission of additional documentation and information as requested by the Administrator. This authority would be used in the event that documents submitted in accordance with requirements § 80.1450(b)(1)(vi)(A) and (B) are not sufficient for EPA to verify that the facility has met all requirements described in § 80.1403(c) or (d).

2. Third-Party Engineering Reviews

The regulations stipulate that producers of renewable fuels and foreign ethanol producers are required to update their registration information, and submit an updated independent third-party engineering review, every 3 years after their initial registration in accordance with § 80.1450(d)(3). We have received many inquiries regarding the start date that EPA uses to determine the 3 year period after which the producer must submit an updated independent third party engineering review (such as the registration acceptance date, the third-party professional engineer's signature date on the engineering review report, or when the engineering review is due for grandfathered and non-grandfathered facilities).

Given the lack of clarity in the current regulations, we are proposing amendments to specify the time frame for submission of updated independent third-party engineering reviews. We are proposing, a simplified method that would group producers according to the calendar year they were or will be registered, and setting a fixed time

frame for registration updates for each group. Therefore, we are proposing to amend § 80.1450(d)(3), to stipulate that for all producers of renewable fuel and foreign ethanol producers in which their registration was accepted by EPA in calendar year 2010, that the updated registration information and independent third-party engineering review shall be submitted to EPA within the three months prior to January 1, 2014, and within three months prior to January 1 of every third calendar year thereafter. For all producers of renewable fuel and foreign ethanol producers registered in any calendar year after 2010, the updated registration information and independent third-party engineering review shall be submitted to EPA within three months prior to January 1 of every third calendar year after the first year the producer's registration was accepted by EPA. For example, a producer registered in 2011 would be required to submit an updated independent third-party engineering review by January 1, 2015, and by January 1 every three calendar years thereafter.

3. Foreign Ethanol Producers

We are proposing that the amendments to the registration requirements in § 80.1450 also apply to foreign ethanol producers. As defined in § 80.1401, foreign ethanol producers are foreign producers that produce ethanol for use in transportation fuel, heating oil or jet fuel but who do not add denaturant to their product. Therefore, foreign ethanol producers do not technically produce ''renewable fuel'' as defined in our regulations. As discussed in the preamble to the Direct Final Rule published on May 1, 2010 (see 75 FR 26032), the result of the amendments made in the Direct Final Rule is to require foreign ethanol facilities that produce ethanol that ultimately becomes part of a renewable fuel for which RINs are generated to provide EPA the same registration information as foreign renewable fuel facilities that export their product to the United States. In both cases the required registration information is important for enforcement purposes, including verifying the use of renewable biomass as feedstock and the assignment of appropriate D codes. Therefore, we believe amendments to the registration requirements that we make in this proposed rule should also be applicable to foreign ethanol producers for same reasons.

F. Additional Amendments and Clarifications

1. Third-Party Engineering Review Addendum

We have received many inquires as to whether an addendum to the existing independent third-party engineering review is sufficient to meet the requirement that all producers of renewable fuel and foreign ethanol producers submit an updated independent third-party engineering review if they make changes to their facility that will qualify the renewable fuel that is produced for a renewable fuel category or D code that is not already reflected in the producer's registration information. In some circumstances the majority of the information verified in the existing independent third-party engineering review would remain the same, and duplicating the entire effort does not appear necessary. We believe the concept of allowing the submission of an addendum in lieu of a updated independent third-party engineering review is reasonable and therefore we are proposing to amend the requirements in § 80.1450(d)(1) to state that a producer of renewable fuel or foreign ethanol producer may submit an addendum to the existing independent third-party engineering review on file with EPA provided the addendum meets all the requirements in § 80.1450(b)(2) and verifies for EPA the most up-to-date information at the producer's existing facility. The updated independent third-party engineering review or addendum shall be submitted at least 60 days prior to producing the new type of renewable fuel and must meet all the same requirements stipulated in § 80.1450(b)(2) for the independent third-party engineering review, including a new site visit conducted by the third-party to verify any changes to the facility that allows it to produce a different renewable fuel that is not currently reflected in their registration on file with EPA.

2. RIN Generation for Fuel Imported From a Registered Foreign Producer

In RFS2, EPA finalized provisions allowing importers to generate RINs for renewable fuel imported from a foreign producer only under certain circumstances. The importer may only generate RINs for fuel imported from a foreign renewable fuel producer or foreign ethanol producer if that producer is registered with EPA and has received EPA company and facility identification numbers pursuant to § 80.1450. Pursuant to § 80.1426(c)(4), the importer is prohibited from generating RINs for fuel imported from a foreign producer that is not registered with EPA. In today's rule, EPA is clarifying that when an importer is generating RINs for fuel imported from a registered foreign renewable fuel producer or foreign ethanol producer, the importer must submit to EPA via EMTS the importer's company identification number, the facility identification number of the import facility where the batch was imported, and the facility identification number for the foreign renewable fuel or ethanol producer that produced the batch of fuel for which the importer is generating RINs. These clarifications are being made in § 80.1452(b)(4) and (5).

3. Bond Posting

We are proposing to amend paragraphs (e)(1), (e)(2) and (g)(2) of § 80.1467 to make them consistent with § 80.1467(g)(1). These amendments attempt to clarify that the amount of the posted bond must post must cover the number of gallon RINs that are sold and/or transferred, and also those RINs held and/or obtained by the foreign entity, including those held and/or obtained to comply with a foreign importer's RVO requirements. We are also proposing to amend §§ 80.1465–80.1467 by striking §§ 80.1465(h)(2)(iii), 80.1466(h)(2)(iii) and 80.1467(e)(2)(iii), which allowed entities to make alternative commitments in lieu of posting bonds. EPA believes that this method is vague, unnecessary, and unenforceable.

4. Acceptance of Separated Yard Waste and Food Waste Plans

We are proposing to amend § 80.1426(f)(5)(ii)(A) to remove the requirement that the separated yard waste plan and separated food waste plan must be approved by EPA, and instead only require that these two plans be submitted and accepted by EPA under the registration procedures specified in § 80.1450(b)(1)(vii). The details and information required to be submitted in the separated yard waste plan and separated food waste plan are not overly burdensome or complex, and therefore we believe it does not warrant a specific EPA approval, but that EPA acceptance of these plans through the registration procedures is sufficient.

5. Transferred Blendstocks in Early Benzene Credit Generation Calculations

Today's rule also proposes one minor correction to the gasoline benzene regulations which would clarify how refiners should account for transferred blendstocks in their early benzene credit generation calculations. Under current rules, refineries which generated early

benzene credits are required to reduce gasoline benzene during an early credit generation period by at least 10% compared to the refinery's benzene baseline, and are also required to make specific operational changes and/or improvements in benzene control technology to reduce gasoline benzene levels.[80] Refineries which reduce their gasoline benzene by at least 10%, in part by transferring reformate to another refinery, could also generate early benzene credits, provided the transferee refinery treated the reformate in specific benzene-reduction processing units.[81] See 72 FR 8486–87 (Feb. 26, 2007). However, the gasoline benzene regulations also contain an additional provision that requires all blendstock streams transferred to, from or between refineries to be excluded from a refinery's early credit generation calculations (except for reformate as described previously). This led to an inconsistent comparison of a refinery's benzene during an early credit generation period with a refinery's benzene baseline (which included blendstocks transferred to the refinery), which was not EPA's intent.

As described in the preamble of the gasoline benzene final rule, EPA intended that refineries not be allowed to generate early benzene credits exclusively through blendstock trading, without making any other qualifying reductions (see 72 FR 8487), but that refineries could generate early benzene credits in part through qualifying reductions and ''in part'' through other means such as blendstock transfers (see 72 FR 8496–97). However, the current regulations do not allow this approach, and this inconsistency has caused confusion among refiners about how to calculate the amount of early credits generated. Refiners have generally followed the approach set out in the preamble (as EPA in fact intended), and included all blendstocks transferred to a refinery in the refinery's early credit generation calculations. Refiners typically keep records on transferred blendstocks for 1–2 years, and thus do not have sufficient data to exclude transferred blendstocks from their early credit generation calculations.

EPA recently became aware of this inconsistency and is proposing to change the regulations to make them consistent with EPA's intent as described in the preamble. Today's proposed rule would amend the gasoline benzene regulations at 40 CFR 80.1275(d)(3) by deleting that provision. This would allow a refinery to include blendstocks transferred to the refinery in the refinery's early benzene credit generation calculations (all other conditions, including treatment which removes benzene in transferred reformate streams still applying, of course). Consistent with EPA's original intent, today's rule also allows a refinery to include transferred blendstocks in past early credit generation calculations, provided the refinery met all of the other requirements for generating early benzene credits. EPA is proposing to include transferred blendstocks in past early credit generation calculation not only because this was EPA's intent at the time of the benzene gasoline rulemaking, but because some refiners have reasonably relied upon that stated intent in devising their compliance strategies.

VI. Petition for Reconsideration

On February 7, 2011, the American Petroleum Institute (API) and the National Petrochemical and Refiners Association (NPRA) jointly submitted a Petition for Reconsideration of EPA's final rule establishing the RFS standards for 2011.[82] EPA is proposing to deny the petition for the reasons described below, and solicits comment on this proposal.

The petition is available in docket EPA HQ OAR 2010–0133. It makes three primary assertions:

1. EPA's 2011 cellulosic biofuel volume requirement of 6.6 million gallons (6.0 million ethanol-equivalent gallons) is unrealistically high. At the most, EPA should have used the estimate of 3.94 mill gallons provided by the Energy Information Administration (EIA).

2. EPA's determination that there are sufficient sources of advanced biofuel to warrant not reducing the advanced biofuel standard lacks adequate factual support.

3. EPA's treatment of delayed RINs injects undesirable uncertainty into the regulatory environment, and is contrary to the basic regulatory framework established by Congress.

The petition requests that EPA reconsider the regulatory requirements in all three areas.

A. Legal Considerations of Petition

The API/NPRA petition was submitted under the reconsideration provisions of section 307(d)(7)(B) of the Clean Air Act (CAA). This section strictly limits petitions for reconsideration both in time and scope. It states that:

> Only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review. If the person raising an objection can demonstrate to the Administrator that it was impracticable to raise such objection within such time or if the grounds for such objection arose after the period for public comment (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule, the Administrator shall convene a proceeding for reconsideration of the rule and provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed. If the Administrator refuses to convene such a proceeding, such person may seek review of such refusal in the United States court of appeals for the appropriate circuit (as provided in subsection (b)). Such reconsideration shall not postpone the effectiveness of the rule. The effectiveness of the rule may be stayed during such reconsideration, however, by the Administrator or the court for a period not to exceed three months.

Thus the requirement to convene a proceeding to reconsider a rule is based on the petitioner demonstrating to EPA: (1) That it was impracticable to raise the objection during the comment period, or that the grounds for such objection arose after the comment period but within the time specified for judicial review (*i.e.,* within 60 days after publication of the final rulemaking notice in the **Federal Register**, see CAA section 307(b)(1); and (2) that the objection is of central relevance to the outcome of the rule.

Regarding the first procedural criterion for reconsideration, a petitioner must show why the issue could not have been presented during the comment period, either because it was impracticable to raise the issue during that time or because the grounds for the issue arose after the period for public comment (but within 60 days of publication of the final action). Thus, CAA section 307(d)(7)(B) does not provide a forum to request EPA to reconsider issues that actually were raised, or could have been raised, prior to promulgation of the final rule.

Regarding the second procedural criterion for reconsideration, in EPA's view, an objection is of central relevance to the outcome of the rule only if it provides substantial support

[80] Early credit generation periods were July 1, 2007 through December 31, 2007, and calendar years 2008, 2009 and 2010.

[81] Refineries produce gasoline by combining several different blendstocks produced by various refinery processing units. Reformate is a blendstock which contains approximately 80% of all benzene found in gasoline, per the MSAT2 regulatory impact analysis.

[82] 75 FR 76790, December 9, 2010.

for the argument that the regulation should be revised.[83]

B. Advanced Biofuel Standard and Delayed RINs

For the concerns raised in the petition related to the treatment of the advanced biofuel requirement for 2011 and the provision for delayed RINs, API and NPRA essentially restate the positions that they took in their comments in response to the 2010 NPRM. For instance, with regard to advanced biofuels, the petitioners did not reference any new data on imports of sugarcane ethanol or the production potential of biodiesel to demonstrate that the statutory applicable volume of 1.35 bill gallons of advanced biodiesel cannot be met in 2011. Likewise with regard to delayed RINs, the petitioners did not cite new circumstances or new information in their assertion that this provision will inject uncertainty into the regulatory system and RIN market. Thus the petition does not provide new information with regard to these two issues or assert arguments that could not have been raised during the comment period. As a result, we do not believe that the petition's request for a reconsideration of these regulatory requirements is justified under CAA 307(d)(7)(B), and we propose to deny the petition with respect to these two issues. We believe that our approach to these matters in the final rulemaking establishing the 2011 RFS standards was appropriate, for the reasons described in the preamble to that rule.

C. 2011 Cellulosic Biofuel Requirement

Regarding the 2011 cellulosic biofuel requirement of 6.0 million ethanol-equivalent gallons, petitioners make two principal arguments: (1) That the statutory requirement that the cellulosic biofuel requirement be ''based on'' the estimate provided by the EIA requires EPA to use the 3.94 million ethanol-equivalent gallon EIA estimate regardless of any other information, and (2) that EPA lacked a reasonable basis for its projection of 6.0 million ethanol-equivalent gallons.

The first issue raised by petitioners was discussed in the RFS2 proposed rule. In the preamble to the 2010 RFS2 Notice of Proposed Rulemaking, we stated that when projecting cellulosic biofuel production volumes annually ''[w]e intend to examine EIA's projected volumes and other available data including the production outlook reports * * *'' that EPA proposed to require renewable fuel producers to submit annually.[84] EPA further explained that the production outlook reports ''would be used * * * to set the annual cellulosic biofuel'' standard.[85] Neither API nor NPRA submitted comments stating, as they do now, that EPA must in all cases rely on the EIA projection and cannot consider or rely upon other information in establishing the annual cellulosic biofuel standard. After evaluating the comments that EPA did receive, we issued a final rule, including applicable volumes and corresponding percentage standards consistent with the proposal. We stated in the preamble to the final rule that ''[w]e will examine EIA's projected volumes and other available data including the required production outlook reports to decide the appropriate standard for the following year. The outlook reports from all renewable fuel producers will assist EPA in determining what the cellulosic biofuel standard should be * * *''[86]

Petitioners had another opportunity to raise this same issue in the context of the rulemaking establishing the 2011 standards. EPA again made it clear in its proposed rule that the projection that would be provided to us by the EIA would only be one of several sources of information we would use to determine the applicable cellulosic biofuel volume for 2011:

> We will complete our evaluation based on comments received in response to this proposal, the Production Outlook Reports due to the Agency on September 1, 2010, the estimate of projected biofuel volumes that the EIA is required to provide to EPA by October 31, and other information that becomes available, and will finalize the standards for 2011 by November 30, 2010.[87]

These standards are to be based in part on transportation fuel volumes estimated by the Energy Information Administration (EIA) for the following year.[88]

As described in the final rule for the RFS2 program, we intend to examine EIA's projected volumes and other available data including the Production Outlook Reports required under § 80.1449 in making the determination of the appropriate volumes to require for 2011.[89]

> * * * each year by October 31 EIA is required to provide an estimate of the volume of cellulosic biofuel they expect to be sold or introduced into commerce in the United States in the following year. EPA will consider this information as well when finalizing a single volume for use in setting the 2011 cellulosic biofuel standard.[90]

After considering all of the information before it, EPA proposed a level for the cellulosic biofuel volume that was different from that contained in the EIA projections. Once again, neither API nor NPRA provided comments in response to the 2010 NPRM on this subject. Accordingly, EPA proposes to deny the petition with respect to the contention that EPA must rely exclusively on the EIA projections in establishing the annual cellulosic biofuel volumes. That argument does not satisfy the criteria for a petition for reconsideration specified under CAA 307(d)(7)(B) since the issue could have been raised during the comment period of the 2010 standards rule, but was not.

As a substantive matter, even if the petitioners were not foreclosed from raising this argument at this time, EPA would propose to deny their claim because the statute specifies that it is EPA, not EIA, that is to make the determination of projected cellulosic biofuel volumes. EPA's decision is to be ''based on'' the EIA estimate (as, indeed it was), but EPA interprets the statute to allow it to consider other available information as well in making its determination. EPA looked at all available information, including public comments on its proposal, and decided that 6.0 million ethanol-equivalent gallons was a reasonable projection for 2011. This is a reasonable interpretation of an ambiguous statutory provision, where Congress said ''based on'' the estimate provided by EIA but did not mandate that the determination be based solely upon this information. EPA carefully considered EIA's projection and explained why EPA's determination was different. See, for example, *Nuclear Energy Institute* v. *EPA,* 373 F.2d 1251, 1269 (DC Cir. 2004).

The petition also contends that EPA is required to project the volume of cellulosic biofuel that will ''actually'' be

[83] See Denial of Petitions to Reconsider Endangerment and Cause or Contribute Findings for Greenhouse Gases under section 202(a), 75 FR 49556, 49560 (August 13, 2010); Denial of Petition to Reconsider, 68 FR 63021 (November 7, 2003), Technical Support Document for Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration at 5 (Oct. 30, 2003) (EPA–456/R–03–005) (available at *http://www.epa.gov/nsr/documents/petitionresponses10-30-03.pdf*); Denial of Petition to Reconsider NAAQS for PM, 53 FR 52698, 52700 (December 29, 1988), citing Denial of Petition to Revise NSPS for Stationary Gas Turbines, 45 FR 81653–54 (December 11, 1980), and decisions cited therein. Also see EPA's February 17, 2011 denial of petitions by Clean Air Taskforce, World Wildlife Fund, National Wildlife Federation, and Friends of the Earth's to reconsider certain elements of the RFS2 program.

[84] 74 FR 24966.

[85] 74 FR 24970.

[86] 75 FR 14726. See also 75 FR 14729 (production outlook reports ''will help EPA set the annual cellulosic biofuel standard * * *'' and ''essential to our annual cellulosic biofuel standard setting * * *'').

[87] 75 FR 42240.

[88] Ibid.

[89] Ibid.

[90] 75 FR 42246.

sold or introduced into commerce in the following year, but that EPA instead established the cellulosic biofuel volume at an ''aspirational'' level. EPA believes that petitioners' allegations are not supported by either the statute or the facts. Under CAA 211(o)(7)(D)(i), for any calendar year for which EPA determines that the projected volume of cellulosic biofuel production is less than the minimum applicable volume established under the statute, EPA is to reduce the applicable volume of cellulosic biofuel to the volume that is projected to be available. The statute specifies that the projection of cellulosic biofuel production is to be ''determined by the Administrator based on the estimate provided by [EIA],'' and that it must be made in time to set the annual standards by November 30 preceding the applicable compliance year. To fulfill its mandate under this provision, EPA undertook an exhaustive evaluation of every existing and potential cellulosic biofuel production facility that could potentially supply cellulosic biofuel for use in the U.S., and projected a production volume for 2011 that reflected a balance between the uncertainty inherent in the projections and the objective of avoiding unnecessary reductions in the applicable volume set forth in the statute.

The requirement to make a projection of cellulosic biofuel volumes for the following year necessarily means that the projection will be an estimate, and may not be exactly the volume that is ''actually'' produced. As described in the 2010 NPRM, there are many factors that may result in the actual volume deviating from the projected volume:

- Difficulty/delays in securing necessary funding.
- Delays in permitting and/or construction.
- Difficulty in scale up, especially for 1st of their kind technologies.
- Volumes from pilot and demonstration plants may not be sold commercially.
- Not all feedstocks may qualify to produce cellulosic Renewable Identification Numbers (RINs); some still awaiting evaluation of lifecycle impacts.
- Likelihood that fuels produced internationally will be exported to the United States rather than consumed locally.[91]

We do not believe that the statute requires our projection to be 100% accurate, or that it requires that EPA project only what is absolutely or highly certain of production, as the petitioners would prefer. Rather, as described in Section II.B.4, we believe that our projection must be reasonable based on the information that is available at the time that the cellulosic biofuel standard is set. The applicable volume established by Congress for cellulosic biofuel is 250 mill gallons for 2011, and in projecting 6 mill gallons of production we lowered the applicable volume by about 98%. The volume of 3.94 mill gallons projected by EIA, and favored by petitioners, also represents a reduction of about 98% from the statutory applicable volume of 250 mill gallons. Moreover, with only one exception (Range Fuel, discussed below), the petitioners do not present any new evidence to refute the projected production estimates that EPA made for the various facilities it anticipated would produce fuel in 2011. Their primary arguments are that we are compelled to use EIA's projection which, as noted above, the statute does not require, and that we are required to project a level with a high degree of certainty.

As discussed in the rule that set the 2011 cellulosic standard, we believe that the volume of cellulosic biofuel actually produced in a given year is likely to be strongly influenced by the standard we set. At this early point in the RFS program, the volume of cellulosic biofuel actually made available will in general not exceed the standard that we set, and there is no recourse for increasing the cellulosic biofuel standard if our projection were to fall short of actual production. Therefore, setting a standard that is lower than what the industry could reasonably achieve could strand investments and/or further delay the industry's ability to move towards the higher levels of commercial production envisioned in the statute. We believe it is appropriate to consider these factors in projecting production volumes, and that we are not compelled to rely solely on volumes actually in production at the time we make our decision, as petitioners would prefer.

In the final rule establishing the 2011 projected volume of cellulosic biofuel, we explained our approach to recognizing and accounting for uncertainty in the projections:

> In directing EPA to project cellulosic biofuel production for purposes of setting the annual cellulosic biofuel standard, Congress did not specify what degree of certainty should be reflected in the projections. We believe that the cellulosic biofuel standard should provide an incentive for the industry to grow according to the goals that Congress established through EISA. However, we also believe that the cellulosic biofuel standard that we set should be within the range of what can be attained based on projected domestic production and import potential. Any estimate we use to set the biofuel standard for 2011 will have some uncertainty in terms of actual attainment, and the level of such uncertainty generally rises with the volume mandate. Our intention is to balance such uncertainty with the objective of providing an incentive for growth in the industry. To this end we explored the 2011 volumes for individual companies as projected by EIA to determine not only what volumes might be anticipated, but more importantly what volumes were potentially attainable. Our final projected available volume of cellulosic biofuel for 2011 reflects these considerations. [92]

Thus, our projection was not ''aspirational,'' as petitioners allege. Instead, we projected a volume that we believed could be reasonably achieved based on the information available at the time the standard was finalized. We acknowledged there were uncertainties, but balanced our consideration of that uncertainty against the goal of avoiding unnecessarily lowering the applicable volume in the statute. This is a reasonable approach to achieving Congress' goal of promoting the growth of the use of cellulosic biofuel, taking into account the interests of both the obligated parties and the producers of cellulosic biofuels.

The API/NPRA petition does not suggest that the projection of 6.0 mill ethanol-equivalent gallons of cellulosic biofuel was not achievable or was not a reasonable balance as discussed above, based on the information available at the time of the final rule. Instead, the petition focuses on balancing these interests in a manner that places the highest priority on achieving a low or very low degree of uncertainty in whether the projected volumes will in fact be produced. The petition focuses almost solely on the uncertainties associated with this volume and requests that the uncertainties be reduced by lowering the applicable volume of cellulosic biofuel to no more than the EIA projection of 3.94 mill gallons. Little if any priority or emphasis is placed on the importance of establishing conditions that reasonably can promote the growth in the production of cellulosic renewable fuel. EPA disagrees that this would be the appropriate balance to draw in implementing this provision, at least in these early years of the RFS2 program.

In arguing for a lower volume based on the uncertainties, the petition highlights the recent history for three companies: Bell BioEnergy, Cello Energy, and Range Fuels. The

[91] 75 FR 42245.

[92] 75 FR 76794.

discussion of Bell BioEnergy and Cello Energy in the petition is an update of the discussion of these same two companies in API's comments submitted in response to the 2010 NPRM. As the petition points out, while the information available at the time of the 2010 NPRM suggested that these two companies could produce cellulosic biofuel in 2011, by the time of the final rulemaking we had obtained updated information and determined that it would not be reasonable to project any 2011 volume from these two companies. At the same time, we added two companies in the final rule that were not included in the 2010 NPRM list of companies that we projected could produce volume in 2011: KiOr and Range Fuels. The changes between the proposed and final lists of companies on which we based our projections for 2011 highlight the fact that, in the emergent cellulosic biofuel industry, any projection of cellulosic biofuel production is highly dependent upon the information available at the time of the projection, and that for any given company this information may change in one direction or another. Nevertheless, changes in the projected volume from one company may be counterbalanced or mitigated by production changes for other companies.

With regard to Range Fuels, we reasonably projected a 2011 volume production of 2.3 mill ethanol-equivalent gallons out of the 6.0 mill ethanol-equivalent gallon volume that we determined was achievable in 2011. Information made available since issuance of the final rule indicates that the facility was idled early in 2011. Nevertheless, this fact does not invalidate the projection of 6.0 mill gallons we made in December 2010, since their facility was complete, operational, and had produced some volume at that time. As indicated by the removal of Bell BioEnergy and Cello Energy from the list of companies we considered in the final rule, and the addition of KiOr and Range Fuels to this same list, it is clear that projections made at any point in time for some companies may ultimately prove too high while the projections for other companies may ultimately prove too low.

This petition for reconsideration under CAA section 307(d) should be considered in the context of the specific statutory provisions related to the annual standard-setting process for the RFS program and the compliance flexibilities in the program. Congress established a standard-setting process for cellulosic biofuel that creates a considerably shorter leadtime than in most other EPA programs, and a standard that applies for only a single year. We are required to project volumes of cellulosic biofuel and determine the applicable percentage standard by November 30 of the year before the annual standard applies. This structure is well designed to facilitate use of the most up-to-date information available before the standard goes into effect. In other contexts, API and NPRA have argued that it is important that EPA not miss this November 30 deadline for setting the annual standards, so as to provide industry with all of the lead time in advance of the compliance year that is afforded by the statute.[93] Since the standard only applies for one year, a petition to reconsider can in practice affect only that single year's obligation, and given the late date at which it is established, necessarily would involve a modification of the annual standard during the year in which it is applicable. Importantly, the statute contains a number of safeguards in the event that an annual standard cannot be achieved. Under CAA section 211(o)(7)(D)(ii) and (iii), Congress established a mechanism through which obligated parties can purchase credits from the EPA in lieu of acquiring cellulosic biofuel RINs. Obligated parties can also carry a deficit for cellulosic biofuel into 2012 under certain conditions as stipulated in § 80.1427(b). Finally, up to 20% of the 2011 cellulosic biofuel standard (1.2 million gallons) can be met with excess cellulosic biofuel RINs from 2010 under the rollover provisions of § 80.1427(a)(5). Indeed, we have determined that at least 1.2 million excess cellulosic biofuel RINs from 2010 do exist, based on reports of renewable fuel production in the first half of 2010 under the RFS1 regulations.

The panoply of compliance flexibilities provided in the statute provides meaningful options for industry in the event that that actual production of cellulosic biofuel in 2011, or any year, falls below EPA projected levels. This, combined with the relatively short period of time at issue for a petition to reconsider a one-year volume standard, and the fact that any change in the standards would occur within the year in which it applies, impacts the kind of circumstances under which it would be appropriate to reconsider the standard. The compliance flexibilities, the short time period at issue, and the disruption that would occur from a change in the standard within the compliance year, indicate that a relatively larger change in circumstances with respect to cellulosic production would need to occur before EPA would determine that new circumstances provide substantial support for revising the volume standard for cellulosic biofuel for a specific year.

EPA believes that the single change that petitioners have identified in their petition, closure of the Range Fuels plant, is not of a sufficiently large magnitude to warrant a standard revision. It may be a substantial percentage of the volume standard, but it remains a relatively minor change compared to the total volume that Congress mandated for 2011. After reducing that volume by 98%, the remaining change in circumstances amounts to a generally small change in an absolute sense, compared to the total volume of renewable fuel and the transportation fuel covered by the RFS2 program. In addition, it can be reasonably addressed by industry through utilization of program flexibilities, including use of carry over credits from 2010, use of cellulosic biofuel RINs for 2011, and deficit carryover into 2012. This approach will avoid the disruption and lack of certainty in the program that could follow if EPA readily re-opened the annual standard to revision during the single year it applied based on relatively small modifications resulting from an individual company's plans. For all of the reasons described above, EPA proposes to deny the petition for reconsideration of the 2011 cellulosic biofuel standard. EPA requests comment on this proposal.

While we are proposing to deny the petition to reconsider the cellulosic biofuel volume requirement for 2011, we nevertheless must take into account the current status of the cellulosic biofuel industry when making our projections for 2012. This includes a review of the progress being made in 2011 by the five companies we used to project the cellulosic biofuel volume of 6.0 mill gallons, including Range Fuels. As noted in Section II.B.1, based on the information we have obtained to date on the status of their facility in Soperton, Georgia, we have not included Range Fuels in the list of companies that we project could produce cellulosic biofuel in 2012. We do not believe that this is inconsistent with our proposal to deny the API/NPRA petition for reconsideration. Our proposal to deny the petition is based on the availability of program flexibilities to allow industry to comply with the unadjusted 2011 standard, the relative magnitude of the

[93] See *NPRA* v. *EPA,* (DC Cir., No 10–1071). slip op. at 37–39.

change, and the desire to avoid disruption in program implementation that would follow from EPA too readily re-opening the standard based on modifications in individual companies' operation plans. Our proposed 2012 projections, on the other hand, are based on the best information available to us at this time, which includes the fact that the Range Fuel facility is not currently operating and we have been unable to confirm its future operational status.

In a similar fashion, we do not believe that identifying the low end of the range of 2012 projected cellulosic biofuel volumes as 3.55 mill gallons is inconsistent with our proposal to deny the API/NPRA petition for reconsideration. As described in Section II.B, we based the low end of the range for applicable 2012 volumes on consideration of only those facilities that are structurally complete at the time of this proposal and which anticipate commercial production of cellulosic biofuels by the end of 2011. While Range Fuel is structurally complete, they have not explicitly provided information to date indicating that they anticipate commercial production in 2011. Absent such information, for today's proposal we have excluded Range Fuels from the low end of the range of potential volumes for 2012.

VII. Public Participation

We request comment on all aspects of this proposal. This section describes how you can participate in this process.

A. How do I submit comments?

We are opening a formal comment period by publishing this document. We will accept comments during the period indicated under **DATES** in the first part of this proposal. If you have an interest in the proposed standards and technical amendments to the RFS regulations described in this document, we encourage you to comment on any aspect of this rulemaking. We also request comment on specific topics identified throughout this proposal.

Your comments will be most useful if you include appropriate and detailed supporting rationale, data, and analysis. Commenters are especially encouraged to provide specific suggestions for any changes that they believe need to be made. You should send all comments, except those containing proprietary information, to our Air Docket (see **ADDRESSES** in the first part of this proposal) before the end of the comment period.

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit Confidential Business Information (CBI) or information that is otherwise protected by statute, please follow the instructions in Section VII.B.

B. How should I submit CBI to the agency?

Do not submit information that you consider to be CBI electronically through the electronic public docket, *http://www.regulations.gov,* or by e-mail. Send or deliver information identified as CBI only to the following address: U.S. Environmental Protection Agency, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, MI, 48105, Attention Docket ID EPA–HQ–OAR–2010–0133. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comments that include any information claimed as CBI, a copy of the comments that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

VIII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action.'' Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011) and any changes made in response to OMB recommendations have been documented in the docket for this action.

The economic impacts of the RFS2 program on regulated parties, including the impacts of the required volumes of renewable fuel, were already addressed in the RFS2 final rule promulgated on March 26, 2010 (75 FR 14670). This action proposes the percentage standards applicable in 2012 based on the volumes that were analyzed in the RFS2 final rule. This action also proposes technical amendments to the RFS2 regulations that have been determined to have no adverse economic impact on regulated parties since they generally clarify existing requirements.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. While there are three proposed regulatory changes in today's NPRM that affect the recordkeeping and reporting burdens for regulated parties, we believe that the information collections already approved for the RFS2 program's general recordkeeping and reporting requirements, or the information collection already under review, would also cover the proposed changes in today's NPRM.

The proposed regulatory changes are listed in Table VIII.B–1.

TABLE VIII.B–1—PROPOSED TECHNICAL AMENDMENTS AFFECTING RECORDKEEPING AND REPORTING

Section	Description
80.1449(a)	Amended Production Outlook Report due date; added allowance for unregistered renewable fuel producers and importers to submit Production Outlook Reports.
80.1450(b)(1)(vi)	Amended to require submission of additional evidence as part of registration to verify eligibility for exemptions in § 80.1403(c) or (d).

TABLE VIII.B–1—PROPOSED TECHNICAL AMENDMENTS AFFECTING RECORDKEEPING AND REPORTING—Continued

Section	Description
80.1450(d)(1)–(d)(3)	Amended to add more specificity on when updates, addenda, or resubmittals are required for engineering reviews and to include references to foreign ethanol producers.

With regard to production outlook reports, the change in due date is not expected to have any impact on the reporting burden. In addition, EPA recently prepared an Information Collection Request (ICR) document to permit the submission of voluntary production outlook reports by domestic and foreign renewable fuels producers. The parties affected by the ICR are not regulated parties under the RFS2 program. The ICR has been submitted for approval to OMB under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* and may be identified by EPA ICR number 2409.01. Documents related to the ICR have been placed in docket number EPA–HQ–OAR–2005–0161, which is accessible at *http://www.regulations.gov.*

On October 14, 2010, EPA published a notice in the **Federal Register** announcing our intent to submit the proposed ICR for voluntary production outlook reports to OMB for approval. (See 75 FR 63173). The 60-day comment period closed on December 14, 2010. No comments were received. On February 8, 2011, EPA published a **Federal Register** notice announcing submission of the ICR to OMB. Additional comments were solicited via an additional comment period through March 10, 2011.[94]

The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations at 40 CFR part 80, Subpart M under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* This would include the following approved information collections (with OMB control numbers and expiration dates listed in parentheses): ''Renewable Fuels Standard Program: Petition and Registration'' (OMB Control Number 2060–0367, expires March 31, 2013); ''Renewable Fuels Standard (RFS2)'' (OMB Control Number 2060–0640, expires July 31, 2013); ''Regulations of Fuels and Fuel Additives: 2011 Renewable Fuels Standard—Petition for International Aggregate Compliance Approach'' OMB Control Number 2060–0655, expires February 28, 2014). Detailed and searchable information about these and other approved collections may be viewed on the Office of Management and Budget (OMB) Paperwork Reduction Act Web site, which is accessible at *http://www.reginfo.gov/public/do/PRAMain.* With regard to the proposed changes in § 80.1450, we believe that these information collections already approved for the RFS2 program's general recordkeeping and reporting requirements would also cover the proposed changes in today's NPRM.

[94] See ''Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Production Outlook Reports for Un-Registered Renewable Fuel Producers (New Collection),'' 76 FR 6781 (February 8, 2011). The document identification number for this notice is EPA–HQ–OAR–2005–0161–3221. The document identification number for the supporting statement is EPA–HQ–OAR–2005–0161–3222.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise, which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, we certify that this proposed action will not have a significant economic impact on a substantial number of small entities. This rule proposes the annual standard for cellulosic biofuels for 2012 and biomass-based diesel for 2013, regulatory provisions for new RIN-generating pathways, and clarifying changes and minor technical amendments to the regulations. However, the impacts of the RFS2 program on small entities were already addressed in the RFS2 final rule promulgated on March 26, 2010 (75 FR 14670). Therefore, this proposed rule will not impose any additional requirements on small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. Thus, this action is not subject to the requirements of sections 202 or 205 of UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action only applies to gasoline, diesel, and renewable fuel producers, importers, distributors and marketers and makes relatively minor corrections and modifications to the RFS2 regulations. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed rule will be implemented at the Federal level and impose compliance costs only on

transportation fuel refiners, blenders, marketers, distributors, importers, exporters, and renewable fuel producers and importers. Tribal governments would be affected only to the extent they purchase and use regulated fuels. Thus, Executive Order 13175 does not apply to this action.

EPA specifically solicits additional comment on this proposed action from Tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it does not establish an environmental standard intended to mitigate health or safety risks and because it implements specific standards established by Congress in statutes.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action does not relax the control measures on sources regulated by the RFS2 regulations and therefore will not cause emissions increases from these sources.

IX. Statutory Authority

Statutory authority for this action comes from section 211 of the Clean Air Act, 42 U.S.C. 7545. Additional support for the procedural and compliance related aspects of today's proposal, including the proposed recordkeeping requirements, come from sections 114, 208, and 301(a) of the Clean Air Act, 42 U.S.C. 7414, 7542, and 7601(a).

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Diesel fuel, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Petroleum, Reporting and recordkeeping requirements.

Dated: June 21, 2011.

Lisa P. Jackson,

Administrator.

For the reasons set forth in the preamble, 40 CFR part 80 is proposed to be amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7542, 7545, and 7601(a).

§ 80.1275 [Amended]

2. In § 80.1275, remove paragraph (d)(3).

Subpart M [Amended]

3. Section 80.1401 is amended by revising the definitions of ''Annual cover crop'' and ''Naphtha'' to read as follows:

§ 80.1401 Definitions.

* * * * *

Annual cover crop means an annual crop, planted as a rotation between primary planted crops, or between trees and vines in orchards and vineyards, typically to protect soil from erosion and to improve the soil between periods of regular crops. An annual cover crop has no existing market to which it can be sold except for its use as feedstock for the production of renewable fuel.

* * * * *

Naphtha means a blendstock falling within the boiling range of gasoline which is composed of only hydrocarbons, is commonly or commercially known as naphtha, and is used to produce gasoline.

* * * * *

4. Section 80.1405 is amended by revising paragraphs (a) through (c) to read as follows:

§ 80.1405 What are the Renewable Fuel Standards?

(a) (1) *Renewable Fuel Standards for 2011.*

(i) The value of the cellulosic biofuel standard for 2011 shall be 0.003 percent.

(ii) The value of the biomass-based diesel standard for 2011 shall be 0.69 percent.

(iii) The value of the advanced biofuel standard for 2011 shall be 0.78 percent.

(iv) The value of the renewable fuel standard for 2011 shall be 8.01 percent.

(2) *Renewable Fuel Standards for 2012.*

(i) The value of the cellulosic biofuel standard for 2012 shall be 0.002–0.010 percent.

(ii) The value of the biomass-based diesel standard for 2012 shall be 0.91 percent.

(iii) The value of the advanced biofuel standard for 2012 shall be 1.21 percent.

(iv) The value of the renewable fuel standard for 2012 shall be 9.21 percent.

(b) EPA will calculate the value of the annual standards and publish these values in the **Federal Register** by November 30 of the year preceding the compliance period.

(c) EPA will calculate the annual renewable fuel percentage standards using the following equations:

$$Std_{CB,i} = 100 * \frac{RFV_{CB,i}}{(G_i - RG_i) + (GS_i - RGS_i) - GE_i + (D_i - RD_i) + (DS_i - RDS_i) - DE_i}$$

$$Std_{BBD,i} = 100 * \frac{RFV_{BBD,i} \times 1.5}{(G_i - RG_i) + (GS_i - RGS_i) - GE_i + (D_i - RD_i) + (DS_i - RDS_i) - DE_i}$$

$$Std_{AB,i} = 100 * \frac{RFV_{AB,i}}{(G_i - RG_i) + (GS_i - RGS_i) - GE_i + (D_i - RD_i) + (DS_i - RDS_i) - DE_i}$$

$$Std_{RF,i} = 100 * \frac{RFV_{RF,i}}{(G_i - RG_i) + (GS_i - RGS_i) - GE_i + (D_i - RD_i) + (DS_i - RDS_i) - DE_i}$$

Where:

$Std_{CB,i}$ = The cellulosic biofuel standard for year i, in percent.

$Std_{BBD,i}$= The biomass-based diesel standard for year i, in percent.

$Std_{AB,i}$= The advanced biofuel standard for year i, in percent.

$Std_{RF,i}$= The renewable fuel standard for year i, in percent.

$RFV_{CB,i}$= Annual volume of cellulosic biofuel required by 42 U.S.C. 7545(o)(2)(B) for year i, or volume as adjusted pursuant to 42 U.S.C. 7545(o)(7)(D), in gallons.

$RFV_{BBD,i}$= Annual volume of biomass-based diesel required by 42 U.S.C. 7545 (o)(2)(B) for year i, in gallons.

$RFV_{AB,i}$= Annual volume of advanced biofuel required by 42 U.S.C. 7545(o)(2)(B) for year i, in gallons.

$RFV_{RF,i}$= Annual volume of renewable fuel required by 42 U.S.C. 7545(o)(2)(B) for year i, in gallons.

G_i= Amount of gasoline projected to be used in the 48 contiguous states and Hawaii, in year i, in gallons.

D_i= Amount of diesel projected to be used in the 48 contiguous states and Hawaii, in year i, in gallons.

RG_i= Amount of renewable fuel blended into gasoline that is projected to be consumed in the 48 contiguous states and Hawaii, in year i, in gallons.

RD_i= Amount of renewable fuel blended into diesel that is projected to be consumed in the 48 contiguous states and Hawaii, in year i, in gallons.

GS_i= Amount of gasoline projected to be used in Alaska or a U.S. territory, in year i, if the state or territory has opted-in or opts-in, in gallons.

RGS_i= Amount of renewable fuel blended into gasoline that is projected to be consumed in Alaska or a U.S. territory, in year i, if the state or territory opts-in, in gallons.

DS_i= Amount of diesel projected to be used in Alaska or a U.S. territory, in year i, if the state or territory has opted-in or opts-in, in gallons.

RDS_i= Amount of renewable fuel blended into diesel that is projected to be consumed in Alaska or a U.S. territory, in year i, if the state or territory opts-in, in gallons.

GE_i= The amount of gasoline projected to be produced by exempt small refineries and small refiners, in year i, in gallons in any year they are exempt per §§ 80.1441 and 80.1442.

DE_i= The amount of diesel fuel projected to be produced by exempt small refineries and small refiners in year i, in gallons, in any year they are exempt per §§ 80.1441 and 80.1442.

* * * * *

5. Section 80.1415 is amended by revising paragraph (c)(2) to read as follows:

§ 80.1415 How are equivalence values assigned to renewable fuel?

* * * * *

(c) * * *

(2) The application for an equivalence value shall include a technical justification that includes all the following:

(i) A calculation for the requested equivalence value according to the equation in paragraph (c)(1) of this section, including supporting documentation for the value of EC used in the calculation such as a certificate of analysis from a laboratory that verifies the lower heating value in Btu per gallon of the renewable fuel produced.

(ii) For each feedstock, component, or additive that is used to make the renewable fuel, provide a description, the percent input, and identify whether or not it is renewable biomass or is derived from renewable biomass.

(iii) For each feedstock that also qualifies as a renewable fuel, state whether or not RINs have been previously generated for such feedstock.

(iv) A description of the renewable fuel and the production process, including a block diagram that shows all inputs and outputs at each step of the production process with a sample quantity of all inputs and outputs for one batch of renewable fuel produced.

* * * * *

6. Section 80.1426 is amended as follows:

a. By revising paragraph (f)(1).

b. By revising Table 1 to § 80.1426.

c. By revising paragraphs (f)(5)(ii)(A) and (f)(5)(ii)(B).

§ 80.1426 How are RINs generated and assigned to batches of renewable fuel by renewable fuel producers or importers?

* * * * *

(f) * * *

(1) *Applicable pathways.* D codes shall be used in RINs generated by producers or importers of renewable fuel according to the pathways listed in Table 1 to this section, paragraph (f)(6) of this section, or as approved by the Administrator. In choosing an appropriate D code, producers and importers may disregard any incidental, de minimis feedstock contaminants that are impractical to remove and are related to customary feedstock production and transport. Tables 1 and 2 to this section do not apply to, and impose no requirements with respect to, volumes of fuel for which RINs are

generated pursuant to paragraph (f)(6) of this section.

TABLE 1 TO § 80.1426—APPLICABLE D CODES FOR EACH FUEL PATHWAY FOR USE IN GENERATING RINS

	Fuel type	Feedstock	Production process requirements	D–Code
A	Ethanol	Corn starch	All of the following: Dry mill process, using natural gas, biomass, or biogas for process energy and at least two advanced technologies from Table 2 to this section.	6
B	Ethanol	Corn starch	All of the following: Dry mill process, using natural gas, biomass, or biogas for process energy and at least one of the advanced technologies from Table 2 to this section plus drying no more than 65% of the distillers grains with solubles it markets annually.	6
C	Ethanol	Corn starch	All of the following: Dry mill process, using natural gas, biomass, or biogas for process energy and drying no more than 50% of the distillers grains with solubles it markets annually.	6
D	Ethanol	Corn starch	Wet mill process using biomass or biogas for process energy.	6
E	Ethanol	Starches from crop residue and annual covercrops.	Fermentation using natural gas, biomass, or biogas for process energy.	6
F	Biodiesel, and renewable diesel.	Soy bean oil; Oil from annual covercrops; Algal oil; Biogenic waste oils/fats/greases; Non-food grade corn oil.	One of the following: Trans-Esterification Hydrotreating Excluding processes that co-process renewable biomass and petroleum.	4
G	Biodiesel	Canola/Rapeseed oil	Trans-Esterification using natural gas or biomass for process energy.	4
H	Biodiesel, and renewable diesel.	Soy bean oil; Oil from annual covercrops; Algal oil; Biogenic waste oils/fats/greases; Non-food grade corn oil.	One of the following: Trans-Esterification Hydrotreating Includes only processes that co-process renewable biomass and petroleum.	5
I	Ethanol	Sugarcane	Fermentation	5
J	Ethanol	Cellulosic Biomass from crop residue, slash, pre-commercial thinnings and tree residue, annual covercrops, switchgrass, and miscanthus; cellulosic components of separated yard waste; cellulosic components of separated food waste; and cellulosic components of separated MSW.	Any	3
K	Cellulosic Diesel, Jet Fuel and Heating Oil.	Cellulosic Biomass from crop residue, slash, pre-commercial thinnings and tree residue, annual covercrops, switchgrass, and miscanthus; cellulosic components of separated yard waste; cellulosic components of separated food waste; and cellulosic components of separated MSW.	Any	7
L	Butanol	Corn starch	Fermentation; dry mill using natural gas, biomass, or biogas for process energy.	6
M	Cellulosic Naphtha	Cellulosic Biomass from crop residue, slash, pre-commercial thinnings and tree residue, annual covercrops, switchgrass, and miscanthus; cellulosic components of separated yard waste; cellulosic components of separated food waste; and cellulosic components of separated MSW.	Fischer-Tropsch process	3
N	Ethanol, renewable diesel, jet fuel, heating oil, and naphtha.	The non-cellulosic portions of separated food waste.	Any	5
O	Biogas	Landfills, sewage waste treatment plants, manure digesters.	Any	5

* * * * *

(5) * * *

(ii)(A) A feedstock qualifies under paragraph (f)(5)(i)(A) or (f)(5)(i)(B) of this section only if it is collected according to a plan submitted to and accepted by U.S. EPA under the registration procedures specified in § 80.1450(b)(1)(vii).

(B) A feedstock qualifies under paragraph (f)(5)(i)(C) of this section only if it is collected according to a plan submitted to and approved by U.S. EPA.

* * * * *

7. Section 80.1429 is amended by revising paragraphs (b)(2) and (b)(9) introductory text to read as follows:

§ 80.1429 Requirements for separating RINs from volumes of renewable fuel.

* * * * *

(b) * * *

(2) Except as provided in paragraph (b)(6) of this section, any party that owns a volume of renewable fuel must separate any RINs that have been assigned to that volume once the volume is blended with gasoline or fossil-based diesel to produce a transportation fuel, heating oil, or jet fuel. A party may separate up to 2.5 RINs per gallon of blended renewable fuel.

* * * * *

(9) Except as provided in paragraphs (b)(2) through (b)(5) and (b)(8) of this section, parties whose non-export renewable volume obligations are solely related to either the importation of products listed in § 80.1407(c) or § 80.1407(e) or to the addition of blendstocks into a volume of finished gasoline, finished diesel fuel, RBOB, or CBOB, can only separate RINs from volumes of renewable fuel if the number of gallon-RINs separated in a calendar year is less than or equal to a limit set as follows:

* * * * *

8. Section 80.1449 is amended by revising paragraph (a) introductory text to read as follows:

§ 80.1449 What are the Production Outlook Report requirements?

(a) By June 1 of each year (September 1 for the report due in 2010), a registered renewable fuel producer or importer must submit and an unregistered renewable fuel producer may submit all of the following information for each of its facilities, as applicable, to EPA:

* * * * *

9. Section 80.1450 is amended as follows:

a. By revising paragraph (b)(1)(vi).

b. By revising paragraphs (d)(1)–(d)(3).

§ 80.1450 What are the registration requirements under the RFS program?

* * * * *

(b) * * *

(1) * * *

(vi) For facilities claiming the exemption described in § 80.1403(c) or (d), evidence demonstrating all of the following:

(A) The date that construction commenced (as defined in § 80.1403(a)(1)), including all the following:

(*1*) Contracts with construction and other companies.

(*2*) Applicable air permits issued by the U.S. Environmental Protection Agency, state, local air pollution control agencies, or foreign governmental agencies that governed the construction and/or operation of the renewable fuel facility during construction and when first operated.

(B) That construction was not discontinued for a period of 18 months after commencement of construction.

(C) That construction was completed by December 19, 2010, for facilities claiming an exemption pursuant to § 80.1403(c); or within 36 months of commencement of construction for facilities claiming an exemption pursuant to § 80.1403(d).

(D) Other documentation and information as requested by the Administrator.

* * * * *

(d) * * *

(1) Any producer of renewable fuel, and any foreign ethanol producer who makes changes to his facility that will allow him to produce renewable fuel, as defined in § 80.1401 that is not reflected in the producer's registration information on file with EPA must update his registration information and submit a copy of an updated independent third-party engineering review on file with EPA at least 60 days prior to producing the new type of renewable fuel. The producer may also submit an addendum to the independent third-party engineering review on file with EPA provided the addendum meets all the requirements in paragraph (b)(2) of this section and verifies for EPA the most up-to-date information at the producer's existing facility.

(2) Any producer of renewable fuel and any foreign ethanol producer who makes any other changes to a facility that will affect the producer's registration information but will not affect the renewable fuel category for which the producer is registered per paragraph (b) of this section must update his registration information 7 days prior to the change.

(3) All producers of renewable fuel and foreign ethanol producers must update registration information and submit an updated independent third-party engineering review according to the schedule in paragraph (d)(3)(i) or (d)(3)(ii) of this section, and including the information specified in paragraph (d)(3)(iii) of this section:

(i) For all producers of renewable fuel and foreign ethanol producers registered in calendar year 2010, the updated registration information and independent third-party engineering review shall be submitted to EPA by October 1, 2013, and by October 1 of every third calendar year thereafter; or

(ii) For all producers of renewable fuel and foreign ethanol producers registered in any calendar year after 2010, the updated registration information and independent third-party engineering review shall be submitted to EPA by October 1 of every third calendar year after the first year of registration.

(iii) In addition to conducting the engineering review and written report and verification required by paragraph (b)(2) of this section, the updated independent third-party engineering review shall include a detailed review of the renewable fuel producer's calculations used to determine V_{RIN} of a representative sample of batches of each type of renewable fuel produced since the last registration. The representative sample shall be selected in accordance with the sample size guidelines set forth at § 80.127.

* * * * *

10. Section 80.1451 is amended by revising paragraph (a)(1)(xi) to read as follows:

§ 80.1451 What are the reporting requirements under the RFS program?

(a) * * *

(1) * * *

(xi) A list of all RINs generated prior to July 1, 2010 that were retired for compliance in the reporting period.

* * * * *

11. Section 80.1452 is amended revising paragraphs (b)(2), (b)(4), and (b)(5) to read as follows:

§ 80.1452 What are the requirements related to the EPA Moderated Transaction System (EMTS)?

* * * * *

(b) * * *

(2) The EPA company registration number of the renewable fuel producer or foreign ethanol producer, as applicable.

* * * * *

(4) The EPA facility registration number of the facility at which the renewable fuel producer or foreign ethanol producer produced the batch, as applicable.

(5) The EPA facility registration number of the importer that imported the batch, if applicable.

* * * * *

12. Section 80.1460 is amended by adding a new paragraph (b)(6) to read as follows:

§ 80.1460 What acts are prohibited under the RFS program?

* * * * *

(b) * * *

(6) Generate a RIN for fuel for which RINs have previously been generated.

* * * * *

13. Section 80.1464 is amended as follows:

a. By revising paragraphs (a)(2) introductory text and (a)(2)(i).

b. By adding paragraphs (a)(2)(iii) and (a)(2)(iv).

c. By revising paragraph (a)(3)(ii).

d. By revising paragraphs (b)(2) introductory text and (b)(2)(i).

e. By adding paragraphs (b)(2)(iii) and (b)(2)(iv).

f. By revising paragraph (b)(3)(ii).

g. By revising paragraph (c)(1) introductory text.

h. By adding paragraphs (c)(1)(iii) and (c)(1)(iv).

§ 80.1464 What are the attest engagement requirements under the RFS program?

* * * * *

(a) * * *

(2) *RIN Transaction Reports and Product Transfer Documents.*

(i) Obtain and read copies of a representative sample, selected in accordance with the guidelines in § 80.127, of each RIN transaction type (RINs purchased, RINs sold, RINs retired, RINs separated, RINs reinstated) included in the RIN transaction reports required under § 80.1451(a)(2) for the compliance year.

* * * * *

(iii) Verify that the product transfer documents for the representative samples under paragraph (a)(2)(i) of this section of RINs sold and the RINs purchased contain the applicable information required under § 80.1453 and report as a finding any product transfer document that does not contain the required information.

(iv) Verify the accuracy of the information contained in the product transfer documents reviewed pursuant to paragraph (a)(2)(iii) of this section and report as a finding any exceptions.

(3) * * *

(ii) Obtain the database, spreadsheet, or other documentation used to generate the information in the RIN activity reports; compare the RIN transaction samples reviewed under paragraph (a)(2) of this section with the corresponding entries in the database or spreadsheet and report as a finding any discrepancies; compute the total number of current-year and prior-year RINs owned at the start and end of each quarter, purchased, separated, sold, retired and reinstated, and for parties that reported RIN activity for RINs assigned to a volume of renewable fuel, the volume and type of renewable fuel (as defined in § 80.1401) owned at the end of each quarter; as represented in these documents; and state whether this information agrees with the party's reports to EPA.

(b) * * *

(2) *RIN Transaction Reports and Product Transfer Documents.*

(i) Obtain and read copies of a representative sample, selected in accordance with the guidelines in § 80.127, of each transaction type (RINs purchased, RINs sold, RINs retired, RINs separated, RINs reinstated) included in the RIN transaction reports required under § 80.1451(b)(2) for the compliance year.

* * * * *

(iii) Verify that the product transfer documents for the representative samples under paragraph (b)(2)(i) of this section of RINs sold and the RINs purchased contain the applicable information required under § 80.1453 and report as a finding any product transfer document that does not contain the required information.

(iv) Verify the accuracy of the information contained in the product transfer documents reviewed pursuant to paragraph (b)(2)(iii) of this section and report as a finding any exceptions.

(3) * * *

(ii) Obtain the database, spreadsheet, or other documentation used to generate the information in the RIN activity reports; compare the RIN transaction samples reviewed under paragraph (b)(2) of this section with the corresponding entries in the database or spreadsheet and report as a finding any discrepancies; report the total number of each RIN generated during each quarter and compute and report the total number of current-year and prior-year RINs owned at the start and end of each quarter, purchased, separated, sold, retired and reinstated, and for parties that reported RIN activity for RINs assigned to a volume of renewable fuel, the volume of renewable fuel owned at the end of each quarter, as represented in these documents; and state whether this information agrees with the party's reports to EPA.

* * * * *

(c) * * *

(1) *RIN Transaction Reports and Product Transfer Documents.*

* * * * *

(iii) Verify that the product transfer documents for the representative samples under paragraph (c)(1)(i) of this section of RINs sold and RINs purchased contain the applicable information required under § 80.1453 and report as a finding any product transfer document that does not contain the required information.

(iv) Verify the accuracy of the information contained in the product transfer documents reviewed pursuant to paragraph (c)(1)(iii) of this section and report as a finding any exceptions.

* * * * *

14. Section 80.1465 is amended by revising paragraph (h)(2) to read as follows:

§ 80.1465 What are the additional requirements under this subpart for foreign small refiners, foreign small refineries, and importers of RFS–FRFUEL?

* * * * *

(h) * * *

(2) Bonds shall be posted by any of the following methods:

(i) Paying the amount of the bond to the Treasurer of the United States.

(ii) Obtaining a bond in the proper amount from a third party surety agent that is payable to satisfy United States administrative or judicial judgments against the foreign refiner, provided EPA agrees in advance as to the third party and the nature of the surety agreement.

* * * * *

15. Section 80.1466 is amended by revising paragraph (h)(2) to read as follows:

§ 80.1466 What are the additional requirements under this subpart for RIN-generating foreign producers and importers of renewable fuels for which RINs have been generated by the foreign producer?

* * * * *

(h) * * *

(2) Bonds shall be posted by any of the following methods:

(i) Paying the amount of the bond to the Treasurer of the United States.

(ii) Obtaining a bond in the proper amount from a third party surety agent that is payable to satisfy United States administrative or judicial judgments against the foreign producer, provided EPA agrees in advance as to the third party and the nature of the surety agreement.

* * * * *

16. Section 80.1467 is amended by revising paragraphs (e)(1), (e)(2), and (g)(2) to read as follows:

§ 80.1467 What are the additional requirements under this subpart for a foreign RIN owner?

* * * * *

(e) * * *

(1) The foreign entity shall post a bond of the amount calculated using the following equation:

Bond = G * $ 0.01

Where:

Bond = Amount of the bond in U.S. dollars.

G = The total of the number of gallon-RINs the foreign entity expects to obtain, sell, transfer or hold during the first calendar

year that the foreign entity is a RIN owner, plus the number of gallon-RINs the foreign entity expects to obtain, sell, transfer or hold during the next four calendar years. After the first calendar year, the bond amount shall be based on the actual number of gallon-RINs obtained, sold, or transferred so far during the current calendar year plus the number of gallon-RINs obtained, sold, or transferred during the four calendar years immediately preceding the current calendar year. For any year for which there were fewer than four preceding years in which the foreign entity obtained, sold, or transferred RINs, the bond shall be based on the total of the number of gallon-RINs sold or transferred so far during the current calendar year plus the number of gallon-RINs obtained, sold, or transferred during any immediately preceding calendar years in which the foreign entity owned RINs, plus the number of gallon-RINs the foreign entity expects to obtain, sell or transfer during subsequent calendar years, the total number of years not to exceed four calendar years in addition to the current calendar year.

(2) Bonds shall be posted by any of the following methods:

(i) Paying the amount of the bond to the Treasurer of the United States.

(ii) Obtaining a bond in the proper amount from a third party surety agent that is payable to satisfy United States administrative or judicial judgments against the foreign RIN owner, provided EPA agrees in advance as to the third party and the nature of the surety agreement.

* * * * *

(g) * * *

(2) Any RIN that is obtained, sold, transferred, or held that is in excess of the number for which the bond requirements of this section have been satisfied is an invalid RIN under § 80.1431.

* * * * *

[FR Doc. 2011–16018 Filed 6–30–11; 8:45 am]

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Part V

Department of the Treasury

Fiscal Service

Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies; Notice

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circular 570; 2011 Revision]

Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies

Effective July 1, 2011.

This Circular is published annually for the information of Federal bond-approving officers and persons required to give bonds to the United States consistent with 31 CFR 223.16. Copies of the Circular and interim changes may be obtained directly from the internet at *http://www.gpoaccess.gov* or from the Government Printing Office (202) 512–1800. (Interim changes are published in the **Federal Register** and on the internet as they occur). Other information pertinent to Federal sureties may be obtained from the U.S. Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Highway, Room 6F01, Hyattsville, MD 20782, Telephone (202) 874–6850 or Fax (202) 874–9978.

The most current list of Treasury authorized companies is always available through the Internet at *http://www.fms.treas.gov/c570.* In addition, applicable laws, regulations, and application information are also available at the same site.

Please note that the underwriting limitation published herein is on a per bond basis but this does not limit the amount of a bond that a company can write. Companies are allowed to write bonds with a penal sum over their underwriting limitation as long as they protect the excess amount with reinsurance, coinsurance or other methods as specified at 31 CFR 223.10–11. Please refer to Note (b) at the end of this publication.

The following companies have complied with the law and the regulations of the U.S. Department of the Treasury. Those listed in the front of this Circular are acceptable as sureties and reinsurers on Federal bonds under Title 31 of the United States Code, Sections 9304 to 9308 [*See* Note (a)]. Those listed in the back are acceptable only as reinsurers on Federal bonds under 31 CFR 223.3(b) [*See* Note (e)].

If we can be of any assistance, please feel free to contact the Surety Bond Branch at (202) 874–6850.

Linda S. Kimberling

Assistant Commissioner for Management (CFO), Financial Management Service.

Important information is contained in the notes at the end of this circular. Please read the notes carefully.

Certified Companies

ACCREDITED SURETY AND CASUALTY COMPANY, INC. (NAIC #26379)

BUSINESS ADDRESS: PO Box 140855, Orlando, FL 32814–0855. PHONE: (407) 629–2131. UNDERWRITING LIMITATION b/: $1,729,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

ACSTAR INSURANCE COMPANY (NAIC #22950)

BUSINESS ADDRESS: P.O. BOX 2350, NEW BRITAIN, CT 06050–2350. PHONE: (860) 224–2000. UNDERWRITING LIMITATION b/: $3,017,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Aegis Security Insurance Company (NAIC #33898)

BUSINESS ADDRESS: P.O. Box 3153, Harrisburg, PA 17105. PHONE: (717) 657–9671. UNDERWRITING LIMITATION b/: $4,215,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

ALL AMERICA INSURANCE COMPANY (NAIC #20222)

BUSINESS ADDRESS: P.O. BOX 351, VAN WERT, OH 45891–0351. PHONE: (419) 238–1010. UNDERWRITING LIMITATION b/: $9,769,000. SURETY LICENSES c,f/: AZ, CA, CT, GA, IL, IN, IA, KY, MA, MI, NV, NJ, NY, NC, OH, OK, TN, TX, VA. INCORPORATED IN: Ohio.

Allegheny Casualty Company (NAIC #13285)

BUSINESS ADDRESS: One Newark Center, 20th Floor, Newark, NJ 07102. PHONE: (800) 333–4167 x-246. UNDERWRITING LIMITATION b/: $1,764,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

ALLEGHENY SURETY COMPANY (NAIC #34541)

BUSINESS ADDRESS: 4217 Steubenville Pike, Pittsburgh, PA 15205. PHONE: (412) 921–3077. UNDERWRITING LIMITATION b/: $283,000. SURETY LICENSES c,f/: PA. INCORPORATED IN: Pennsylvania.

ALLIED Property and Casualty Insurance Company (NAIC #42579)

BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., 1–04–701, COLUMBUS, OH 43215–2220. PHONE: (515) 508–4211. UNDERWRITING LIMITATION b/: $6,253,000. SURETY LICENSES c,f/: AZ, CA, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MO, MT, NE, NV, NM, OH, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Iowa.

Allied World Reinsurance Company (NAIC #22730)

BUSINESS ADDRESS: 199 Water Street, New York, NY 10038. PHONE: (646) 794–0500. UNDERWRITING LIMITATION b/: $46,065,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

AMCO Insurance Company (NAIC #19100)

BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., 1–04–701, COLUMBUS, OH 43215–2220. PHONE: (515) 508–4211. UNDERWRITING LIMITATION b/: $45,951,000. SURETY LICENSES c,f/: AZ, CA, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MO, MT, NE, NV, NM, NC, OH, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Iowa.

AMERICAN ALTERNATIVE INSURANCE CORPORATION (NAIC #19720)

BUSINESS ADDRESS: 555 COLLEGE ROAD EAST–P.O. BOX 5241, PRINCETON, NJ 08543. PHONE: (609) 243–4200. UNDERWRITING LIMITATION b/: $14,623,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

American Automobile Insurance Company (NAIC #21849)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899–2000. UNDERWRITING LIMITATION b/: $15,209,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA (NAIC #10111)

BUSINESS ADDRESS: 11222 QUAIL ROOST DRIVE, MIAMI, FL 33157–6596. PHONE: (305) 253–2244. UNDERWRITING LIMITATION b/: $40,163,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Florida.

American Casualty Company of Reading, Pennsylvania (NAIC #20427)

BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (312) 822–5000. UNDERWRITING LIMITATION b/: $12,506,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

AMERICAN CONTRACTORS INDEMNITY COMPANY (NAIC #10216) *1*

BUSINESS ADDRESS: 601 South Figueroa Street, 16th Floor, Los Angeles, CA 90017. PHONE: (310) 649–0990. UNDERWRITING LIMITATION b/: $6,815,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MP, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

American Economy Insurance Company (NAIC #19690)

BUSINESS ADDRESS: 350 E. 96th Street, Indianapolis, IN 46240. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $23,629,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Fire and Casualty Company (NAIC #24066)

BUSINESS ADDRESS: 9450 Seward Road, Fairfield, OH 45014. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $4,436,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

American Guarantee and Liability Insurance Company (NAIC #26247)

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 18TH FLOOR, SCHAUMBURG, IL 60196–1056. PHONE: (847) 605–6000. UNDERWRITING LIMITATION b/: $16,777,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Hardware Mutual Insurance Company (NAIC #13331)

BUSINESS ADDRESS: 471 East Broad Street, Columbus, OH 43215. PHONE: (614) 225–8211. UNDERWRITING LIMITATION b/: $12,413,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

American Home Assurance Company (NAIC #19380)

BUSINESS ADDRESS: 175 WATER STREET, 18TH FLOOR, NEW YORK, NY 10038. PHONE: (212) 770–7000. UNDERWRITING LIMITATION b/: $580,843,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Insurance Company (The) (NAIC #21857)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899–2000. UNDERWRITING LIMITATION b/: $31,007,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

AMERICAN ROAD INSURANCE COMPANY (THE) (NAIC #19631)

BUSINESS ADDRESS: One American Road, MD 7600, Dearborn, MI 48126–2701. PHONE: (313) 337–1102. UNDERWRITING LIMITATION b/: $27,442,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

American Safety Casualty Insurance Company (NAIC #39969)

BUSINESS ADDRESS: 100 Galleria Pkwy, S.E. Suite 700, Atlanta, GA 30339. PHONE: (770) 916–1908. UNDERWRITING LIMITATION b/: $7,914,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Oklahoma.

AMERICAN SERVICE INSURANCE COMPANY, INC. (NAIC #42897)

BUSINESS ADDRESS: 150 Northwest Point Blvd., Suite 300, Elk Grove Village, IL 60007. PHONE: (847) 472–

6700. UNDERWRITING LIMITATION b/: $3,583,000. SURETY LICENSES c,f/: AL, AK, AZ, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MS, MO, MT, NE, NV, NY, OH, OK, PA, SC, SD, TX, UT, WA, WV, WY. INCORPORATED IN: Illinois.

American Southern Insurance Company (NAIC #10235)

BUSINESS ADDRESS: P O Box 723030, Atlanta, GA 31139–0030. PHONE: (404) 266–9599. UNDERWRITING LIMITATION b/: $3,872,000. SURETY LICENSES c,f/: AL, AZ, AR, DE, DC, FL, GA, IL, IN, KS, KY, MD, MN, MS, MO, NE, NJ, NY, NC, OH, PA, SC, TN, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Kansas.

American States Insurance Company (NAIC #19704)

BUSINESS ADDRESS: 350 E. 96th Street, Indianapolis, IN 46240. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $33,002,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Surety Company (NAIC #31380)

BUSINESS ADDRESS: 250 East 96th Street, Suite 202, Indianapolis, IN 46240. PHONE: (317) 875–8700. UNDERWRITING LIMITATION b/: $1,085,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Indiana.

Amerisure Mutual Insurance Company (NAIC #23396)

BUSINESS ADDRESS: P. O. Box 2060, Farmington Hills, MI 48333–2060. PHONE: (248) 615–9000. UNDERWRITING LIMITATION b/: $67,335,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Antilles Insurance Company (NAIC #10308)

BUSINESS ADDRESS: PO Box 9023507, San Juan, PR 00902–3507. PHONE: (787) 474–4900. UNDERWRITING LIMITATION b/: $5,424,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

Arch Insurance Company (NAIC #11150)

BUSINESS ADDRESS: 300 Plaza Three, Jersey City, NJ 07311–1107. PHONE: (201) 743–4000. UNDERWRITING LIMITATION b/: $61,578,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Arch Reinsurance Company (NAIC #10348)

BUSINESS ADDRESS: 360 Mt. Kemble Avenue, P.O. Box 1988, Morristown, NJ 07962–1988. PHONE: (973) 898–9575. UNDERWRITING LIMITATION b/: $28,727,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV. INCORPORATED IN: Nebraska.

Argonaut Insurance Company (NAIC #19801)

BUSINESS ADDRESS: 10101 Reunion Place, Suite 500, San Antonio, TX 78216. PHONE: (800) 470–7958. UNDERWRITING LIMITATION b/: $37,889,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Associated Indemnity Corporation (NAIC #21865)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899–2000. UNDERWRITING LIMITATION b/: $7,754,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: California.

Atlantic Bonding Company, Inc. (NAIC #41114)

BUSINESS ADDRESS: 1726 Reisterstown Rd, Ste 212, Pikesville, MD 21208. PHONE: (410) 484–3100. UNDERWRITING LIMITATION b/: $1,018,000. SURETY LICENSES c,f/: FL, MD. INCORPORATED IN: Maryland.

Auto-Owners Insurance Company (NAIC #18988)

BUSINESS ADDRESS: P.O. BOX 30660, LANSING, MI 48909–8160. PHONE: (517) 323–1200. UNDERWRITING LIMITATION b/: $608,125,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, FL, GA, ID, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NV, NM, NC, ND, OH, OR, PA, SC, SD, TN, UT, VA, WA, WI. INCORPORATED IN: Michigan.

AXIS Insurance Company (NAIC #37273)

BUSINESS ADDRESS: 11680 Great Oaks Way, Ste. 500, Alpharetta, GA 30022. PHONE: (678) 746–9400. UNDERWRITING LIMITATION b/: $47,121,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

AXIS Reinsurance Company (NAIC #20370)

BUSINESS ADDRESS: 11680 Great Oaks Way, Suite 500, Alpharetta, GA 30022. PHONE: (678) 746–9400. UNDERWRITING LIMITATION b/: $66,997,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Bankers Insurance Company (NAIC #33162)

BUSINESS ADDRESS: P.O. BOX 15707, ST. PETERSBURG, FL 33733. PHONE: (727) 823–4000. UNDERWRITING LIMITATION b/: $4,513,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

Beazley Insurance Company, Inc. (NAIC #37540)

BUSINESS ADDRESS: 30 Batterson Park Road, Farmington, CT 06032. PHONE: (860) 677–3700. UNDERWRITING LIMITATION b/: $11,609,000.

SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, PA, RI, SC, SD, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Berkley Insurance Company (NAIC #32603)

BUSINESS ADDRESS: 475 STEAMBOAT ROAD, GREENWICH, CT 06830. PHONE: (203) 542–3800. UNDERWRITING LIMITATION b/: $182,483,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Berkley Regional Insurance Company (NAIC #29580)

BUSINESS ADDRESS: 11201 Douglas Avenue, Urbandale, IA 50322. PHONE: (203) 629–3000. UNDERWRITING LIMITATION b/: $68,988,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

BITUMINOUS CASUALTY CORPORATION (NAIC #20095)

BUSINESS ADDRESS: 320–18TH STREET, ROCK ISLAND, IL 61201–8744. PHONE: (309) 786–5401. UNDERWRITING LIMITATION b/: $25,663,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

BOND SAFEGUARD INSURANCE COMPANY (NAIC #27081)

BUSINESS ADDRESS: 10002 Shelbyville Road, Suite 100, Louisville, KY 40223. PHONE: (502) 253–6500. UNDERWRITING LIMITATION b/: $2,484,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, KS, KY, LA, ME, MD, MA, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Brierfield Insurance Company (NAIC #10993)

BUSINESS ADDRESS: 6300 University Parkway, Sarasota, FL 34240. PHONE: (800) 226–3224 x–2726. UNDERWRITING LIMITATION b/: $734,000. SURETY LICENSES c,f/: AL, AR, MS, TN. INCORPORATED IN: Mississippi.

BRITISH AMERICAN INSURANCE COMPANY (NAIC #32875)

BUSINESS ADDRESS: P.O. Box 1590, Dallas, TX 75221–1590. PHONE: (214) 443–5500. UNDERWRITING LIMITATION b/: $2,857,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Capitol Indemnity Corporation (NAIC #10472)

BUSINESS ADDRESS: P.O. Box 5900, Madison, WI 53705–0900. PHONE: (608) 829–4200. UNDERWRITING LIMITATION b/: $18,717,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Capitol Preferred Insurance Company, Inc. (NAIC #10908)

BUSINESS ADDRESS: 2255 Killearn Center Boulevard, Tallahassee, FL 32309. PHONE: (850) 521–0742. UNDERWRITING LIMITATION b/: $1,269,000. SURETY LICENSES c,f/: FL, GA, SC. INCORPORATED IN: Florida.

Carolina Casualty Insurance Company (NAIC #10510)

BUSINESS ADDRESS: P. O. BOX 2575, JACKSONVILLE, FL 32203–2575. PHONE: (904) 363–0900. UNDERWRITING LIMITATION b/: $19,381,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Centennial Casualty Company (NAIC #34568)

BUSINESS ADDRESS: 2200 Woodcrest Place, Suite 200, Birmingham, AL 35209. PHONE: (205) 877–4500. UNDERWRITING LIMITATION b/: $4,516,000. SURETY LICENSES c,f/: AL. INCORPORATED IN: Alabama.

CENTRAL MUTUAL INSURANCE COMPANY (NAIC #20230)

BUSINESS ADDRESS: P.O. Box 351, VAN WERT, OH 45891–0351. PHONE: (419) 238–1010. UNDERWRITING LIMITATION b/: $36,999,000. SURETY LICENSES c,f/: AZ, CA, CO, CT, DE, GA, IL, IN, IA, KY, MA, MI, NV, NH, NJ, NM, NY, NC, OH, OK, PA, TN, TX, VA. INCORPORATED IN: Ohio.

CENTURY SURETY COMPANY (NAIC #36951)

BUSINESS ADDRESS: 465 Cleveland Avenue, Westerville, OH 43082. PHONE: (614) 895–2000. UNDERWRITING LIMITATION b/: $11,122,000. SURETY LICENSES c,f/: AZ, IN, OH, WV, WI. INCORPORATED IN: Ohio.

CHEROKEE INSURANCE COMPANY (NAIC #10642)

BUSINESS ADDRESS: 34200 Mound Road, Sterling Heights, MI 48310. PHONE: (800) 201–0450 x-3474. UNDERWRITING LIMITATION b/: $11,952,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Chrysler Insurance Company (NAIC #10499)

BUSINESS ADDRESS: CIMS:405–26–10, P.O. Box 9217, Farmington Hills, MI 48333–9217. PHONE: (800) 782–9164. UNDERWRITING LIMITATION b/: $13,277,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

CHUBB INDEMNITY INSURANCE COMPANY (NAIC #12777)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (212) 612–4000. UNDERWRITING LIMITATION b/: $9,894,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Cincinnati Casualty Company (The) (NAIC #28665)

BUSINESS ADDRESS: P.O. Box 145496, Cincinnati, OH 45250–5496. PHONE: (513) 870–2000. UNDERWRITING LIMITATION b/: $26,854,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Cincinnati Insurance Company (The) (NAIC #10677)

BUSINESS ADDRESS: P.O. BOX 145496, CINCINNATI, OH 45250–5496. PHONE: (513) 870–2000. UNDERWRITING LIMITATION b/: $350,869,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

CITIZENS INSURANCE COMPANY OF AMERICA (NAIC #31534)

BUSINESS ADDRESS: 645 W. GRAND RIVER AVENUE, HOWELL, MI 48843–2151. PHONE: (517) 546–2160. UNDERWRITING LIMITATION b/: $69,815,000. SURETY LICENSES c,f/: AL, GA, IL, IN, KS, ME, MA, MI, MO, NH, NJ, NY, NC, OH, PA, RI, SC, VT, VA, WI. INCORPORATED IN: Michigan.

COLONIAL AMERICAN CASUALTY AND SURETY COMPANY (NAIC #34347)

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 18TH FLOOR, SCHAUMBURG, IL 60196–1056. PHONE: (847) 605–6000. UNDERWRITING LIMITATION b/: $2,357,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Maryland.

COLONIAL SURETY COMPANY (NAIC #10758)

BUSINESS ADDRESS: 50 Chestnut Ridge Road, Montvale, NJ 07645. PHONE: (201) 573–8788. UNDERWRITING LIMITATION b/: $2,021,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

COMPANION PROPERTY AND CASUALTY INSURANCE COMPANY (NAIC #12157)

BUSINESS ADDRESS: P.O. Box 100165, Columbia, SC 29202. PHONE: (803) 735–0672. UNDERWRITING LIMITATION b/: $21,653,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Carolina.

Continental Casualty Company (NAIC #20443)

BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (312) 822–5000. UNDERWRITING LIMITATION b/: $795,783,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

CONTINENTAL HERITAGE INSURANCE COMPANY (NAIC #39551)

BUSINESS ADDRESS: 6140 PARKLAND BLVD, STE 321, MAYFIELD HEIGHTS, OH 44124. PHONE: (440) 229–3420. UNDERWRITING LIMITATION b/: $635,000. SURETY LICENSES c,f/: AZ, CA, FL, GA, ID, IL, IN, IA, LA, MD, MN, MS, NV, NM, ND, OH, PA, SC, TN, TX, VA. INCORPORATED IN: Florida.

Continental Insurance Company (The) (NAIC #35289)

BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (312) 822–5000. UNDERWRITING LIMITATION b/: $101,300,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

CONTRACTORS BONDING AND INSURANCE COMPANY (NAIC #37206)

BUSINESS ADDRESS: P.O. BOX 9271, SEATTLE, WA 98109–0271. PHONE: (206) 628–7200. UNDERWRITING LIMITATION b/: $11,192,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Cooperativa de Seguros Multiples de Puerto Rico (NAIC #18163)

BUSINESS ADDRESS: PO BOX 363846, SAN JUAN, PR 00936–3846. PHONE: (787) 622–3575 x–2512. UNDERWRITING LIMITATION b/: $19,703,000. SURETY LICENSES c,f/: FL, PR. INCORPORATED IN: Puerto Rico.

CUMIS INSURANCE SOCIETY, INC. (NAIC #10847)

BUSINESS ADDRESS: P. O. Box 1084, Madison, WI 53701. PHONE: (608) 238–5851. UNDERWRITING LIMITATION b/: $47,037,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Darwin National Assurance Company (NAIC #16624)

BUSINESS ADDRESS: 9 Farm Springs Road, Farmington, CT 06032. PHONE: (860) 284–1300. UNDERWRITING LIMITATION b/: $30,540,000. SURETY LICENSES c,f/: AL, AK, AZ, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Developers Surety and Indemnity Company (NAIC #12718)

BUSINESS ADDRESS: P.O. BOX 19725, IRVINE, CA 92623–9725. PHONE: (949) 263–3300. UNDERWRITING LIMITATION b/: $6,602,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Employers Insurance Company of Wausau (NAIC #21458)

BUSINESS ADDRESS: 2000 Westwood Drive, Wausau, WI 54401. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $122,117,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Employers Mutual Casualty Company (NAIC #21415)

BUSINESS ADDRESS: P. O. BOX 712, DES MOINES, IA 50306–0712. PHONE: (515) 280–2511. UNDERWRITING LIMITATION b/: $92,897,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Endurance Reinsurance Corporation of America (NAIC #11551)

BUSINESS ADDRESS: 333 Westchester Avenue, White Plains, NY 10604. PHONE: (914) 468–8000. UNDERWRITING LIMITATION b/: $62,834,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Delaware.

Erie Insurance Company (NAIC #26263)

BUSINESS ADDRESS: 100 ERIE INSURANCE PLACE, ERIE, PA 16530. PHONE: (814) 870–2000. UNDERWRITING LIMITATION b/: $25,078,000. SURETY LICENSES c,f/: DC, IL, IN, KY, MD, MN, NY, NC, OH, PA, TN, VA, WV, WI. INCORPORATED IN: Pennsylvania.

Everest Reinsurance Company (NAIC #26921)

BUSINESS ADDRESS: P.O. Box 830, Liberty Corner, NJ 07938–0830. PHONE: (908) 604–3000. UNDERWRITING LIMITATION b/: $252,752,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Evergreen National Indemnity Company (NAIC #12750)

BUSINESS ADDRESS: 6140 PARKLAND BLVD, STE 321, MAYFIELD HEIGHTS, OH 44124. PHONE: (440) 229–3420. UNDERWRITING LIMITATION b/: $2,740,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: Ohio.

Executive Risk Indemnity Inc. (NAIC #35181)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (908) 903–2000. UNDERWRITING LIMITATION b/: $111,177,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Explorer Insurance Company (NAIC #40029)

BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186–5563. PHONE: (858) 350–2400 x–2550. UNDERWRITING LIMITATION b/: $4,423,000. SURETY LICENSES c,f/: AZ, CA, CO, HI, ID, IL, IN, IA, MT, NV, NM, OR, PA, TX, UT, WA. INCORPORATED IN: California.

Farmers Alliance Mutual Insurance Company (NAIC #19194)

BUSINESS ADDRESS: 1122 North Main Street, McPherson, KS 67460. PHONE: (620) 241–2200. UNDERWRITING LIMITATION b/: $14,763,000. SURETY LICENSES c,f/: CO, ID, IA, KS, MN, MO, MT, NE, NM, ND, OK, SD, TX. INCORPORATED IN: Kansas.

Farmington Casualty Company (NAIC #41483)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $28,341,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Farmland Mutual Insurance Company (NAIC #13838)

BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., 1–04–701, COLUMBUS, OH 43215–2220. PHONE: (515) 508–3300. UNDERWRITING LIMITATION b/: $16,273,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

FCCI INSURANCE COMPANY (NAIC #10178)

BUSINESS ADDRESS: 6300 University Parkway, Sarasota, FL 34240. PHONE: (800) 226–3224 x–2726. UNDERWRITING LIMITATION b/: $43,792,000. SURETY LICENSES c,f/: AL, AZ, CO, FL, GA, IL, IN, IA, KS, KY, MD, MI, MS, MO, NE, NC, OH, OK, PA, SC, TN, VA. INCORPORATED IN: Florida.

Federal Insurance Company (NAIC #20281)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (908) 903–2000. UNDERWRITING LIMITATION b/: $1,310,655,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Indiana.

FEDERATED MUTUAL INSURANCE COMPANY (NAIC #13935)

BUSINESS ADDRESS: 121 EAST PARK SQUARE, OWATONNA, MN 55060. PHONE: (507) 455–5200. UNDERWRITING LIMITATION b/: $219,094,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Fidelity and Deposit Company of Maryland (NAIC #39306)

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 18TH FLOOR, SCHAUMBURG, IL 60196–1056. PHONE: (847) 605–6000. UNDERWRITING LIMITATION b/: $16,970,000. SURETY LICENSES

c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

FIDELITY AND GUARANTY INSURANCE COMPANY (NAIC #35386)

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310–7911. UNDERWRITING LIMITATION b/: $1,917,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Fidelity and Guaranty Insurance Underwriters, Inc. (NAIC #25879)

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310–7911. UNDERWRITING LIMITATION b/: $10,111,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Fidelity National Property and Casualty Insurance Company (NAIC #16578)

BUSINESS ADDRESS: P.O. Box 45126, Jacksonville, FL 32232–5126. PHONE: (800) 849–6140. UNDERWRITING LIMITATION b/: $10,108,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Financial Casualty & Surety, Inc. (NAIC #35009)

BUSINESS ADDRESS: 3131 Eastside, Suite 600, Houston, TX 77098. PHONE: (877) 737–2245. UNDERWRITING LIMITATION b/: $1,017,000. SURETY LICENSES c,f/: AZ, CA, CT, DE, FL, ID, IN, IA, KS, LA, MD, MI, MN, MS, MT, NV, NJ, NY, NC, ND, OH, PA, SC, TN, TX, UT, VT, WA, WV. INCORPORATED IN: Texas.

Financial Pacific Insurance Company (NAIC #31453)

BUSINESS ADDRESS: P.O. Box 292220, Sacramento, CA 95829–2220. PHONE: (916) 630–5000. UNDERWRITING LIMITATION b/: $7,718,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, ID, KS, MO, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, WI. INCORPORATED IN: California.

Fireman's Fund Insurance Company (NAIC #21873)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899–2000. UNDERWRITING LIMITATION b/: $265,221,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: California.

First Founders Assurance Company (NAIC #12150)

BUSINESS ADDRESS: 6 Mill Ridge Lane, Chester, NJ 07930–2486. PHONE: (908) 879–0990. UNDERWRITING LIMITATION b/: $292,000. SURETY LICENSES c,f/: NJ. INCORPORATED IN: New Jersey.

First Insurance Company of Hawaii, Ltd. (NAIC #41742)

BUSINESS ADDRESS: P.O. Box 2866, Honolulu, HI 96803. PHONE: (808) 527–7777. UNDERWRITING LIMITATION b/: $23,818,000. SURETY LICENSES c,f/: GU, HI. INCORPORATED IN: Hawaii.

First Liberty Insurance Corporation (The) (NAIC #33588)

BUSINESS ADDRESS: 2815 Forbs Avenue, Suite 200, Hoffman Estates, IL 60192. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $2,365,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

First National Insurance Company of America (NAIC #24724)

BUSINESS ADDRESS: 1001 Fourth Avenue, Safeco Plaza, Seattle, WA 98154. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $4,603,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

First Net Insurance Company (NAIC #10972)

BUSINESS ADDRESS: 102 JULALE CENTER, HAGATNA, GU 96910. PHONE: (671) 477–8613. UNDERWRITING LIMITATION b/: $930,000. SURETY LICENSES c,f/: GU, MP. INCORPORATED IN: Guam.

First Sealord Surety, Inc. (NAIC #28519)

BUSINESS ADDRESS: P.O. Box 900, Villanova, PA 19085. PHONE: (610) 664–2259. UNDERWRITING LIMITATION b/: $1,064,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MS, MO, NE, NV, NJ, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

General Casualty Company of Wisconsin (NAIC #24414)

BUSINESS ADDRESS: One General Drive, Sun Prairie, WI 53596–0001. PHONE: (608) 837–4440. UNDERWRITING LIMITATION b/: $40,545,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

General Insurance Company of America (NAIC #24732)

BUSINESS ADDRESS: 1001 Fourth Avenue, Safeco Plaza, Seattle, WA 98154. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $40,961,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Washington.

General Reinsurance Corporation (NAIC #22039)

BUSINESS ADDRESS: 120 LONG RIDGE ROAD, STAMFORD, CT 06902–1843. PHONE: (203) 328–5000. UNDERWRITING LIMITATION b/: $931,944,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY,

NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

GRANITE RE, INC. (NAIC #26310)

BUSINESS ADDRESS: 14001 Quailbrook Drive, Oklahoma City, OK 73134. PHONE: (405) 752–2600. UNDERWRITING LIMITATION b/: $1,460,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, ID, IL, IN, IA, KS, KY, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, SD, TN, TX, UT, WI, WY. INCORPORATED IN: Oklahoma.

Granite State Insurance Company (NAIC #23809)

BUSINESS ADDRESS: 175 WATER STREET, 18TH FLOOR, NEW YORK, NY 10038. PHONE: (212) 770–7000. UNDERWRITING LIMITATION b/: $3,739,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

GRAY CASUALTY & SURETY COMPANY (THE) (NAIC #10671)

BUSINESS ADDRESS: P.O. Box 6202, Metairie, LA 70009–6202. PHONE: (504) 888–7790. UNDERWRITING LIMITATION b/: $1,476,000. SURETY LICENSES c,f/: AL, AZ, AR, GA, KY, LA, MS, MO, NV, NM, NC, OK, SC, TN, TX. INCORPORATED IN: Louisiana.

GRAY INSURANCE COMPANY (THE) (NAIC #36307)

BUSINESS ADDRESS: P.O. BOX 6202, METAIRIE, LA 70009–6202. PHONE: (504) 888–7790. UNDERWRITING LIMITATION b/: $9,322,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Louisiana.

GREAT AMERICAN ALLIANCE INSURANCE COMPANY (NAIC #26832)

BUSINESS ADDRESS: 301 East Fourth Street, Cincinnati, OH 45202–4201. PHONE: (513) 369–5000. UNDERWRITING LIMITATION b/: $2,927,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Great American Insurance Company (NAIC #16691)

BUSINESS ADDRESS: 301 East Fourth Street, Cincinnati, OH 45202–4201. PHONE: (513) 369–5000. UNDERWRITING LIMITATION b/: $147,628,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK (NAIC #22136)

BUSINESS ADDRESS: 301 East Fourth Street, Cincinnati, OH 45202–4201. PHONE: (513) 369–5000. UNDERWRITING LIMITATION b/: $6,246,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Great Northern Insurance Company (NAIC #20303)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (908) 903–2000. UNDERWRITING LIMITATION b/: $45,925,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Greenwich Insurance Company (NAIC #22322)

BUSINESS ADDRESS: SEAVIEW HOUSE, 70 SEAVIEW AVENUE, STAMFORD, CT 06902. PHONE: (203) 964–5200. UNDERWRITING LIMITATION b/: $45,256,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Guarantee Company of North America USA (The) (NAIC #36650)

BUSINESS ADDRESS: 25800 Northwestern Highway, Suite 720, Southfield, MI 48075–8410. PHONE: (248) 281–0281 x–6012. UNDERWRITING LIMITATION b/: $13,252,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Hanover Insurance Company (The) (NAIC #22292)

BUSINESS ADDRESS: 440 LINCOLN STREET, WORCESTER, MA 01653–0002. PHONE: (508) 853–7200 x–4476. UNDERWRITING LIMITATION b/: $96,082,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

HARCO NATIONAL INSURANCE COMPANY (NAIC #26433)

BUSINESS ADDRESS: 702 OBERLIN ROAD, RALEIGH, NC 27605–0800. PHONE: (847) 321–4800. UNDERWRITING LIMITATION b/: $14,676,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Harleysville Mutual Insurance Company (NAIC #14168)

BUSINESS ADDRESS: 355 Maple Avenue, Harleysville, PA 19438–2297. PHONE: (215) 256–5000. UNDERWRITING LIMITATION b/: $82,964,000. SURETY LICENSES c,f/: AL, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Harleysville Worcester Insurance Company (NAIC #26182)

BUSINESS ADDRESS: 355 Maple Avenue, Harleysville, PA 19438–2297. PHONE: (215) 256–5000. UNDERWRITING LIMITATION b/: $13,844,000. SURETY LICENSES c,f/

: AL, AR, CT, DE, DC, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI. INCORPORATED IN: Pennsylvania.

Hartford Accident and Indemnity Company (NAIC #22357)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $221,131,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Casualty Insurance Company (NAIC #29424)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $97,165,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Fire Insurance Company (NAIC #19682)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $1,395,886,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Insurance Company of Illinois (NAIC #38288)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $133,049,000. SURETY LICENSES c,f/: CT, HI, IL, MI, NY, PA. INCORPORATED IN: Illinois.

Hartford Insurance Company of the Midwest (NAIC #37478)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $30,959,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Insurance Company of the Southeast (NAIC #38261)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $5,705,000. SURETY LICENSES c,f/: CT, FL, GA, KS, LA, MI, PA. INCORPORATED IN: Connecticut.

Hudson Insurance Company (NAIC #25054)

BUSINESS ADDRESS: 17 State Street, 29th Floor, New York, NY 10004. PHONE: (212) 978–2800. UNDERWRITING LIMITATION b/: $37,090,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

IMT Insurance Company (NAIC #14257)

BUSINESS ADDRESS: P.O. Box 1336, Des Moines, IA 50306–1336. PHONE: (515) 327–2777. UNDERWRITING LIMITATION b/: $11,217,000. SURETY LICENSES c,f/: IL, IA, MN, MO, NE, SD, WI. INCORPORATED IN: Iowa.

Indemnity Company of California (NAIC #25550)

BUSINESS ADDRESS: P. O. BOX 19725, IRVINE, CA 92623–9725. PHONE: (949) 263–3300. UNDERWRITING LIMITATION b/: $1,645,000. SURETY LICENSES c,f/: AK, AZ, CA, HI, ID, IN, NV, OR, SC, UT, VA, WA. INCORPORATED IN: California.

Indemnity National Insurance Company (NAIC #18468)

BUSINESS ADDRESS: 4800 Old Kingston Pike, Knoxville, TN 37919. PHONE: (865) 934–4360. UNDERWRITING LIMITATION b/: $1,280,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, GA, KY, LA, MS, NV, NM, OK, SC, TN, TX, UT. INCORPORATED IN: Mississippi.

Independence Casualty and Surety Company (NAIC #10024)

BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186–5563. PHONE: (858) 350–2400. UNDERWRITING LIMITATION b/: $2,422,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Indiana Lumbermens Mutual Insurance Company (NAIC #14265)

BUSINESS ADDRESS: 3600 Woodview Trace, Indianapolis, IN 46268. PHONE: (800) 428–1441. UNDERWRITING LIMITATION b/: $3,250,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Inland Insurance Company (NAIC #23264)

BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. PHONE: (402) 435–4302. UNDERWRITING LIMITATION b/: $13,907,000. SURETY LICENSES c,f/: AZ, CO, IA, KS, MN, MO, MT, NE, ND, OK, SD, WY. INCORPORATED IN: Nebraska.

Insurance Company of the State of Pennsylvania (The) (NAIC #19429)

BUSINESS ADDRESS: 175 WATER STREET, 18TH FLOOR, NEW YORK, NY 10038. PHONE: (212) 770–7000. UNDERWRITING LIMITATION b/: $207,093,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the West (NAIC #27847)

BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186–5563. PHONE: (858) 350–2400 x–2550. UNDERWRITING LIMITATION b/: $35,083,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Insurors Indemnity Company (NAIC #43273)

BUSINESS ADDRESS: P.O. Box 2683, Waco, TX 76702–2683. PHONE: (254) 759–3703 x–3727. UNDERWRITING LIMITATION b/: $987,000. SURETY LICENSES c,f/: AR, NM, OK, TX. INCORPORATED IN: Texas.

INTEGRAND ASSURANCE COMPANY (NAIC #26778)

BUSINESS ADDRESS: PO Box 70128, San Juan, PR 00936–8128. PHONE: (787) 781–0707 x–200. UNDERWRITING LIMITATION b/: $7,145,000. SURETY LICENSES c,f/: PR, VI. INCORPORATED IN: Puerto Rico.

International Fidelity Insurance Company (NAIC #11592) 2

BUSINESS ADDRESS: One Newark Center, Newark, NJ 07102–5207. PHONE: (973) 624–7200. UNDERWRITING LIMITATION b/: $7,906,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

ISLAND INSURANCE COMPANY, LIMITED (NAIC #22845)

BUSINESS ADDRESS: P.O. Box 1520, Honolulu, HI 96806–1520. PHONE: (808) 564–8200. UNDERWRITING LIMITATION b/: $12,306,000. SURETY LICENSES c,f/: HI. INCORPORATED IN: Hawaii.

Kansas Bankers Surety Company (The) (NAIC #15962)

BUSINESS ADDRESS: P.O. Box 1654, Topeka, KS 66601. PHONE: (785) 228–0000. UNDERWRITING LIMITATION b/: $14,067,000. SURETY LICENSES c,f/: AZ, AR, CO, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, NM, ND, OH, OK, SD, TN, TX, UT, WV, WI, WY. INCORPORATED IN: Kansas.

LEXINGTON NATIONAL INSURANCE CORPORATION (NAIC #37940)

BUSINESS ADDRESS: P.O. BOX 6098, LUTHERVILLE, MD 21094. PHONE: (410) 625–0800. UNDERWRITING LIMITATION b/: $1,902,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IN, IA, KS, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Maryland.

Lexon Insurance Company (NAIC #13307)

BUSINESS ADDRESS: 10002 Shelbyville Rd, Suite 100, Louisville, KY 40223. PHONE: (502) 253–6500. UNDERWRITING LIMITATION b/: $3,936,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

Liberty Insurance Corporation (NAIC #42404)

BUSINESS ADDRESS: 2815 Forbs Avenue, Suite 200, Hoffman Estates, IL 60192. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $27,617,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Liberty Mutual Fire Insurance Company (NAIC #23035)

BUSINESS ADDRESS: 2000 Westwood Drive, Wausau, WI 54401. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $113,733,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Liberty Mutual Insurance Company (NAIC #23043)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $884,904,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

LM Insurance Corporation (NAIC #33600)

BUSINESS ADDRESS: 2815 Forbs Avenue, Suite 200, Hoffman Estates, IL 60192. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $14,455,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Lyndon Property Insurance Company (NAIC #35769)

BUSINESS ADDRESS: 14755 North Outer Forty Rd., Suite 400, St. Louis, MO 63017. PHONE: (636) 536–5600. UNDERWRITING LIMITATION b/: $18,533,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Manufacturers Alliance Insurance Company (NAIC #36897)

BUSINESS ADDRESS: P.O. Box 3031, Blue Bell, PA 19422–0754. PHONE: (610) 397–5000. UNDERWRITING LIMITATION b/: $7,143,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, ID, IN, KS, KY, LA, ME, MD, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, PA, RI, SC, SD, TN, UT, VT, VA, WA. INCORPORATED IN: Pennsylvania.

MARKEL INSURANCE COMPANY (NAIC #38970)

BUSINESS ADDRESS: 4521 Highwoods Parkway, Glen Allen, VA 23060. PHONE: (800) 431–1270. UNDERWRITING LIMITATION b/: $19,408,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Massachusetts Bay Insurance Company (NAIC #22306)

BUSINESS ADDRESS: 440 LINCOLN STREET, WORCESTER, MA 01653–0002. PHONE: (508) 853–7200 x–4476. UNDERWRITING LIMITATION b/: $5,326,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, CT, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, NE, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, TX, VT, VA, WA, WV, WI. INCORPORATED IN: New Hampshire.

Merchants Bonding Company (Mutual) (NAIC #14494)

BUSINESS ADDRESS: 2100 Fleur Drive, Des Moines, IA 50321–1158. PHONE: (515) 243–8171. UNDERWRITING LIMITATION b/: $6,079,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA,

WV, WI, WY. INCORPORATED IN: Iowa.

Michigan Millers Mutual Insurance Company (NAIC #14508)

BUSINESS ADDRESS: P. O. Box 30060, Lansing, MI 48909–7560. PHONE: (517) 482–6211 x–765. UNDERWRITING LIMITATION b/: $7,257,000. SURETY LICENSES c,f/: AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NY, NC, ND, OH, OK, OR, PA, SD, TN, VA, WA, WI, WY. INCORPORATED IN: Michigan.

Mid-Century Insurance Company (NAIC #21687)

BUSINESS ADDRESS: P.O. Box 2478 Terminal Annex, Los Angeles, CA 90051. PHONE: (323) 932–3200. UNDERWRITING LIMITATION b/: $83,666,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, MA, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: California.

Mid-Continent Casualty Company (NAIC #23418)

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587–7221. UNDERWRITING LIMITATION b/: $20,209,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NM, NC, ND, OH, OK, OR, SC, SD, TN, TX, UT, VA, WA, WY. INCORPORATED IN: Ohio.

Minnesota Surety and Trust Company (NAIC #30996)

BUSINESS ADDRESS: 107 West Oakland Avenue, Austin, MN 55912. PHONE: (507) 437–3231. UNDERWRITING LIMITATION b/: $109,000. SURETY LICENSES c,f/: MN, MT, ND, SD, UT. INCORPORATED IN: Minnesota.

Motorists Mutual Insurance Company (NAIC #14621)

BUSINESS ADDRESS: 471 East Broad Street, Columbus, OH 43215. PHONE: (614) 225–8211. UNDERWRITING LIMITATION b/: $50,332,000. SURETY LICENSES c,f/: IN, KY, MI, OH, PA, WV. INCORPORATED IN: Ohio.

Motors Insurance Corporation (NAIC #22012)

BUSINESS ADDRESS: 300 GALLERIA OFFICENTRE, SOUTHFIELD, MI 48034. PHONE: (248) 263–6900. UNDERWRITING LIMITATION b/: $140,685,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Munich Reinsurance America, Inc. (NAIC #10227)

BUSINESS ADDRESS: 555 COLLEGE ROAD EAST—P.O. BOX 5241, PRINCETON, NJ 08543. PHONE: (609) 243–4200. UNDERWRITING LIMITATION b/: $429,780,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

National American Insurance Company (NAIC #23663)

BUSINESS ADDRESS: P.O. Box 9, Chandler, OK 74834. PHONE: (405) 258–0804. UNDERWRITING LIMITATION b/: $5,547,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Oklahoma.

National Casualty Company (NAIC #11991)

BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., 1–04–701, COLUMBUS, OH 43215–2220. PHONE: (480) 365–4000. UNDERWRITING LIMITATION b/: $11,519,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Wisconsin.

National Farmers Union Property and Casualty Company (NAIC #16217)

BUSINESS ADDRESS: One General Drive, Sun Prairie, WI 53596. PHONE: (608) 837–4440. UNDERWRITING LIMITATION b/: $7,231,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

National Fire Insurance Company of Hartford (NAIC #20478)

BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (312) 822–5000. UNDERWRITING LIMITATION b/: $11,223,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

National Indemnity Company (NAIC #20087)

BUSINESS ADDRESS: 3024 Harney Street, Omaha, NE 68131–3580. PHONE: (402) 916–3000. UNDERWRITING LIMITATION b/: $6,843,705,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

National Surety Corporation (NAIC #21881)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (312) 346–6400. UNDERWRITING LIMITATION b/: $13,586,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

National Trust Insurance Company (NAIC #20141)

BUSINESS ADDRESS: 6300 University Parkway, Sarasota, FL 34240. PHONE: (800) 226–3224 x–2726. UNDERWRITING LIMITATION b/: $3,386,000. SURETY LICENSES c,f/: AZ, FL, GA, IL, IN, IA, KY, MD, MI, MS, MO, NE, NC, OK, SC, TN. INCORPORATED IN: Indiana.

National Union Fire Insurance Company of Pittsburgh, PA (NAIC #19445)

BUSINESS ADDRESS: 175 WATER STREET, 18TH FLOOR, NEW YORK, NY 10038. PHONE: (212) 770–7000. UNDERWRITING LIMITATION b/: $1,274,082,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI,

SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Nations Bonding Company (NAIC #11595)

BUSINESS ADDRESS: 2100 Fleur Drive, Des Moines, IA 50321–1158. PHONE: (515) 243–8171. UNDERWRITING LIMITATION b/: $470,000. SURETY LICENSES c,f/: PA, TX. INCORPORATED IN: Texas.

Nationwide Mutual Insurance Company (NAIC #23787)

BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., 1–04–701, COLUMBUS, OH 43215–2220. PHONE: (614) 249–7111. UNDERWRITING LIMITATION b/: $994,892,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Navigators Insurance Company (NAIC #42307)

BUSINESS ADDRESS: 6 International Drive, Rye Brook, NY 10573. PHONE: (914) 934–8999. UNDERWRITING LIMITATION b/: $68,692,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, LA, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

New Hampshire Insurance Company (NAIC #23841)

BUSINESS ADDRESS: 175 WATER STREET, 18TH FLOOR, NEW YORK, NY 10038. PHONE: (212) 770–7000. UNDERWRITING LIMITATION b/: $74,125,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

NGM Insurance Company (NAIC #14788)

BUSINESS ADDRESS: 55 WEST STREET, KEENE, NH 03431. PHONE: (904) 380–7282. UNDERWRITING LIMITATION b/: $73,311,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

North American Specialty Insurance Company (NAIC #29874)

BUSINESS ADDRESS: 650 ELM STREET, MANCHESTER, NH 03101. PHONE: (603) 644–6600. UNDERWRITING LIMITATION b/: $25,602,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Northwestern Pacific Indemnity Company (NAIC #20338)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (503) 221–4240. UNDERWRITING LIMITATION b/: $1,485,000. SURETY LICENSES c,f/: CA, OK, OR, TX, WA. INCORPORATED IN: Oregon.

NOVA Casualty Company (NAIC #42552)

BUSINESS ADDRESS: 726 EXCHANGE STREET, SUITE 1020, BUFFALO, NY 14210–1466. PHONE: (716) 856–3722. UNDERWRITING LIMITATION b/: $8,840,000. SURETY LICENSES c,f/: AZ, CA, FL, GA, IL, IN, KS, NJ, NY, OK, PA, RI, TX, VA, WY. INCORPORATED IN: New York.

Ohio Casualty Insurance Company (The) (NAIC #24074)

BUSINESS ADDRESS: 9450 Seward Road, Fairfield, OH 45014. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $83,785,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Farmers Insurance Company (NAIC #24104)

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251–5001. PHONE: (330) 887–0101. UNDERWRITING LIMITATION b/: $138,290,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, IL, IN, IA, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Indemnity Company (NAIC #26565)

BUSINESS ADDRESS: 250 East Broad Street, 7th Floor, Columbus, OH 43215. PHONE: (614) 228–2800. UNDERWRITING LIMITATION b/: $4,520,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Oklahoma Surety Company (NAIC #23426)

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587–7221. UNDERWRITING LIMITATION b/: $1,534,000. SURETY LICENSES c,f/: AR, KS, LA, OH, OK, TX. INCORPORATED IN: Ohio.

Old Dominion Insurance Company (NAIC #40231)

BUSINESS ADDRESS: 55 WEST STREET, KEENE, NH 03431. PHONE: (904) 642–3000. UNDERWRITING LIMITATION b/: $2,889,000. SURETY LICENSES c,f/: CT, DE, FL, GA, ME, MD, MA, NH, NY, NC, PA, RI, SC, TN, VT, VA. INCORPORATED IN: Florida.

Old Republic General Insurance Corporation (NAIC #24139)

BUSINESS ADDRESS: 307 NORTH MICHIGAN AVENUE, CHICAGO, IL 60601. PHONE: (312) 346–8100. UNDERWRITING LIMITATION b/: $30,270,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Old Republic Insurance Company (NAIC #24147)

BUSINESS ADDRESS: P.O. Box 789, Greensburg, PA 15601–0789. PHONE: (724) 834–5000. UNDERWRITING LIMITATION b/: $86,932,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Old Republic Surety Company (NAIC #40444)

BUSINESS ADDRESS: P.O. BOX 1635, MILWAUKEE, WI 53201–1635. PHONE: (262) 797–2640. UNDERWRITING LIMITATION b/: $4,576,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, MD, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

OneBeacon America Insurance Company (NAIC #20621)

BUSINESS ADDRESS: One Beacon Lane, Canton, MA 02021–1030. PHONE: (781) 332–7000. UNDERWRITING LIMITATION b/: $16,377,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

OneBeacon Insurance Company (NAIC #21970)

BUSINESS ADDRESS: One Beacon Lane, Canton, MA 02021–1030. PHONE: (781) 332–7000. UNDERWRITING LIMITATION b/: $76,367,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Pacific Indemnity Company (NAIC #20346)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (908) 903–2000. UNDERWRITING LIMITATION b/: $242,414,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Pacific Indemnity Insurance Company (NAIC #18380)

BUSINESS ADDRESS: 348 WEST O'BRIEN DRIVE, HAGATNA, GU 96910. PHONE: (671) 477–1663. UNDERWRITING LIMITATION b/: $1,164,000. SURETY LICENSES c,f/: GU, MP. INCORPORATED IN: Guam.

Partner Reinsurance Company of the U.S. (NAIC #38636)

BUSINESS ADDRESS: ONE GREENWICH PLAZA, GREENWICH, CT 06830–6352. PHONE: (203) 485–4200. UNDERWRITING LIMITATION b/: $108,710,000. SURETY LICENSES c,f/: AL, AZ, CA, CO, DC, IL, KS, MI, MS, NE, NY, TX, UT, WA. INCORPORATED IN: New York.

Partner Insurance Company of New York (NAIC #10006)

BUSINESS ADDRESS: One Greenwich Plaza, Greenwich, CT 06830–6352. PHONE: (203) 485–4200. UNDERWRITING LIMITATION b/: $10,987,000. SURETY LICENSES c,f/: AL, AZ, CA, CO, DE, DC, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MT, NE, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, WA, WV, WI. INCORPORATED IN: New York.

Peerless Insurance Company (NAIC #24198)

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $168,830,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Pekin Insurance Company (NAIC #24228)

BUSINESS ADDRESS: 2505 COURT STREET, PEKIN, IL 61558. PHONE: (309) 346–1161. UNDERWRITING LIMITATION b/: $9,782,000. SURETY LICENSES c,f/: AZ, IL, IN, IA, MI, OH, WI. INCORPORATED IN: Illinois.

Pennsylvania General Insurance Company (NAIC #21962)

BUSINESS ADDRESS: One Beacon Lane, Canton, MA 02021–1030. PHONE: (781) 332–7000. UNDERWRITING LIMITATION b/: $9,969,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Pennsylvania Manufacturers Indemnity Company (NAIC #41424)

BUSINESS ADDRESS: P.O. Box 3031, Blue Bell, PA 19422–0754. PHONE: (610) 397–5000. UNDERWRITING LIMITATION b/: $8,206,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, ID, IN, KS, KY, LA, ME, MD, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, PA, RI, SC, SD, TN, UT, VT, VA, WA. INCORPORATED IN: Pennsylvania.

Pennsylvania Manufacturers' Association Insurance Company (NAIC #12262)

BUSINESS ADDRESS: P.O. Box 3031, Blue Bell, PA 19422–0754. PHONE: (610) 397–5000. UNDERWRITING LIMITATION b/: $23,879,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, WA, WV. INCORPORATED IN: Pennsylvania.

Pennsylvania National Mutual Casualty Insurance Company (NAIC #14990)

BUSINESS ADDRESS: P.O. Box 2361, Harrisburg, PA 17105–2361. PHONE: (717) 234–4941. UNDERWRITING LIMITATION b/: $48,715,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Philadelphia Indemnity Insurance Company (NAIC #18058)

BUSINESS ADDRESS: One Bala Plaza, Suite 100, Bala Cynwyd, PA 19004–1403. PHONE: (610) 617–7900. UNDERWRITING LIMITATION b/: $180,630,000. SURETY LICENSES c,f/: AL, AK, CA, CO, DE, DC, HI, ID, IL, IN, IA, KY, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Pioneer General Insurance Company (NAIC #12670)

BUSINESS ADDRESS: 333 W. Hampden Avenue, Suite 815, Englewood, CO 80110. PHONE: (303) 649–9163. UNDERWRITING LIMITATION b/: $387,000. SURETY LICENSES c,f/: AZ, CO, KS, MO, MT, NE, NV, NM, UT, WY. INCORPORATED IN: Colorado.

Platte River Insurance Company (NAIC #18619)

BUSINESS ADDRESS: P.O. Box 5900, Madison, WI 53705–0900. PHONE: (608) 829–4200. UNDERWRITING LIMITATION b/: $4,070,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL,

IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

Plaza Insurance Company (NAIC #30945)

BUSINESS ADDRESS: 700 West 47th Street, Suite 350, Kansas City, MO 64112. PHONE: (816) 412–1800. UNDERWRITING LIMITATION b/: $1,106,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Missouri.

ProCentury Insurance Company (NAIC #21903)

BUSINESS ADDRESS: 465 Cleveland Avenue, Westerville, OH 43082. PHONE: (614) 895–2000. UNDERWRITING LIMITATION b/: $3,292,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, DE, DC, GA, IL, IN, IA, KS, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OK, PA, SC, SD, TX, UT, WV, WI, WY. INCORPORATED IN: Texas.

Progressive Casualty Insurance Company (NAIC #24260)

BUSINESS ADDRESS: P.O. BOX 89490, CLEVELAND, OH 44101–6490. PHONE: (440) 461–5000. UNDERWRITING LIMITATION b/: $133,346,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Protective Insurance Company (NAIC #12416)

BUSINESS ADDRESS: PO Box 7099, Indianapolis, IN 46207. PHONE: (317) 636–9800 x-2632. UNDERWRITING LIMITATION b/: $24,905,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Regent Insurance Company (NAIC #24449)

BUSINESS ADDRESS: One General Drive, Sun Prairie, WI 53596–0001. PHONE: (608) 837–4440. UNDERWRITING LIMITATION b/: $4,558,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Republic—Franklin Insurance Company (NAIC #12475)

BUSINESS ADDRESS: P. O. Box 530, Utica, NY 13503–0530. PHONE: (315) 734–2000. UNDERWRITING LIMITATION b/: $4,066,000. SURETY LICENSES c,f/: CT, DE, DC, GA, IL, IN, KS, MD, MA, MI, NJ, NY, NC, OH, PA, RI, TN, TX, VA, WI. INCORPORATED IN: Ohio.

RLI Indemnity Company (NAIC #28860)

BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692–1000. UNDERWRITING LIMITATION b/: $4,070,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

RLI Insurance Company (NAIC #13056)

BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692–1000. UNDERWRITING LIMITATION b/: $69,168,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Roche Surety and Casualty Company, Inc. (NAIC #42706)

BUSINESS ADDRESS: 1910 Orient Road, Tampa, FL 33619. PHONE: (813) 623–5042. UNDERWRITING LIMITATION b/: $779,000. SURETY LICENSES c,f/: AK, AZ, AR, CT, DE, FL, GA, ID, IN, IA, KS, LA, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, PA, SC, SD, TN, TX, UT, VT, VA, WA. INCORPORATED IN: Florida.

Rockwood Casualty Insurance Company (NAIC #35505)

BUSINESS ADDRESS: 654 Main Street, Rockwood, PA 15557. PHONE: (814) 926–4661. UNDERWRITING LIMITATION b/: $8,397,000. SURETY LICENSES c,f/: AK, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MN, MS, MO, MT, NV, NM, NC, OH, OK, OR, PA, SC, SD, TX, UT, VA, WV. INCORPORATED IN: Pennsylvania.

SAFECO Insurance Company of America (NAIC #24740)

BUSINESS ADDRESS: 1001 Fourth Avenue, Safeco Plaza, Seattle, WA 98154. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $54,431,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Safety National Casualty Corporation (NAIC #15105)

BUSINESS ADDRESS: 1832 Schuetz Road, St. Louis, MO 63146–3540. PHONE: (314) 995–5300. UNDERWRITING LIMITATION b/: $72,892,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Sagamore Insurance Company (NAIC #40460)

BUSINESS ADDRESS: PO Box 7099, Indianapolis, IN 46207. PHONE: (317) 636–9800 x-2632. UNDERWRITING LIMITATION b/: $11,604,000. SURETY LICENSES c,f/: AL, AK, AZ, CO, CT, DE, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MN, MS, MO, MT, NE, NM, NY, NC, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, WA, WV, WI, WY. INCORPORATED IN: Indiana.

SECURA INSURANCE, A Mutual Company (NAIC #22543)

BUSINESS ADDRESS: P.O. Box 819, Appleton, WI 54912–0819. PHONE: (920) 739–3161. UNDERWRITING LIMITATION b/: $24,881,000. SURETY LICENSES c,f/: AZ, AR, CO, IL, IN, IA, KS, MI, MN, MO, ND, PA, SD, TN, WA, WI, WY. INCORPORATED IN: Wisconsin.

Selective Insurance Company of America (NAIC #12572)

BUSINESS ADDRESS: 40 WANTAGE AVENUE, BRANCHVILLE, NJ 07890. PHONE: (973) 948–3000. UNDERWRITING LIMITATION b/: $54,261,000. SURETY LICENSES

c,f/: AL, AK, AR, CT, DE, DC, GA, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

Seneca Insurance Company, Inc. (NAIC #10936)

BUSINESS ADDRESS: 160 Water Street, New York, NY 10038–4922. PHONE: (212) 344–3000. UNDERWRITING LIMITATION b/: $18,208,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Sentry Insurance A Mutual Company (NAIC #24988)

BUSINESS ADDRESS: 1800 NORTH POINT DRIVE, STEVENS POINT, WI 54481–8020. PHONE: (715) 346–6000. UNDERWRITING LIMITATION b/: $313,900,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Sentry Select Insurance Company (NAIC #21180)

BUSINESS ADDRESS: 1800 NORTH POINT DRIVE, STEVENS POINT, WI 54481–8020. PHONE: (715) 346–6000. UNDERWRITING LIMITATION b/: $22,640,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Service Insurance Company (NAIC #36560)

BUSINESS ADDRESS: P.O. Box 9729, Bradenton, FL 34206–9729. PHONE: (800) 780–8423. UNDERWRITING LIMITATION b/: $2,003,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MI, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

Service Insurance Company Inc. (the) (NAIC #28240)

BUSINESS ADDRESS: 80 Main Street, West Orange, NJ 07052. PHONE: (973) 731–7650. UNDERWRITING LIMITATION b/: $496,000. SURETY LICENSES c,f/: CT, DE, MD, MA, NH, NJ, NY, PA, RI, VA. INCORPORATED IN: New Jersey.

Southwest Marine and General Insurance Company (NAIC #12294)

BUSINESS ADDRESS: 919 Third Avenue, New York, NY 10022. PHONE: (212) 551–0600. UNDERWRITING LIMITATION b/: $2,916,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MS, MO, MT, NE, NV, ND, OH, OK, PA, SC, SD, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

St. Paul Fire and Marine Insurance Company (NAIC #24767)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $312,852,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

St. Paul Guardian Insurance Company (NAIC #24775)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $2,669,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

St. Paul Mercury Insurance Company (NAIC #24791)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $14,017,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Standard Fire Insurance Company (The) (NAIC #19070)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $119,281,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Star Insurance Company (NAIC #18023)

BUSINESS ADDRESS: 26255 American Drive, Southfield, MI 48034. PHONE: (248) 358–1100. UNDERWRITING LIMITATION b/: $22,635,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

StarNet Insurance Company (NAIC #40045)

BUSINESS ADDRESS: 475 Steamboat Road, Greenwich, CT 06830. PHONE: (630) 210–0360. UNDERWRITING LIMITATION b/: $10,898,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

State Auto Property and Casualty Insurance Company (NAIC #25127)

BUSINESS ADDRESS: 518 EAST BROAD STREET, COLUMBUS, OH 43215. PHONE: (614) 464–5000. UNDERWRITING LIMITATION b/: $57,278,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

State Automobile Mutual Insurance Company (NAIC #25135)

BUSINESS ADDRESS: 518 EAST BROAD STREET, COLUMBUS, OH 43215. PHONE: (614) 464–5000. UNDERWRITING LIMITATION b/: $66,143,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, CT, DE, DC, FL,

GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

State Farm Fire and Casualty Company (NAIC #25143)

BUSINESS ADDRESS: ONE STATE FARM PLAZA, BLOOMINGTON, IL 61710. PHONE: (309) 766–2311. UNDERWRITING LIMITATION b/: $877,295,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

SureTec Insurance Company (NAIC #10916)

BUSINESS ADDRESS: 952 Echo Lane, Suite 450, Houston, TX 77024. PHONE: (713) 812–0800. UNDERWRITING LIMITATION b/: $6,740,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

Surety Bonding Company of America (NAIC #24047)

BUSINESS ADDRESS: P.O. Box 5111, Sioux Falls, SD 57117–5111. PHONE: (605) 336–0850. UNDERWRITING LIMITATION b/: $750,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, KS, MN, MO, MT, NE, NV, NM, NY, ND, OK, OR, SC, SD, TN, TX, UT, WV, WY. INCORPORATED IN: South Dakota.

Swiss Reinsurance America Corporation (NAIC #25364)

BUSINESS ADDRESS: 175 KING STREET, ARMONK, NY 10504. PHONE: (913) 676–5200. UNDERWRITING LIMITATION b/: $472,256,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI. INCORPORATED IN: New York.

Texas Pacific Indemnity Company (NAIC #20389)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (214) 754–0777. UNDERWRITING LIMITATION b/: $656,000. SURETY LICENSES c,f/: AR, TX. INCORPORATED IN: Texas.

Transatlantic Reinsurance Company (NAIC #19453)

BUSINESS ADDRESS: 80 PINE STREET, NEW YORK, NY 10005. PHONE: (212) 365–2200. UNDERWRITING LIMITATION b/: $432,544,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, NV, NJ, NM, NY, OH, OK, PA, SD, UT, WA, WI. INCORPORATED IN: New York.

Travelers Casualty and Surety Company (NAIC #19038)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $335,413,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of America (NAIC #31194)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $180,222,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty Insurance Company of America (NAIC #19046)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $51,441,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Indemnity Company (The) (NAIC #25658)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $706,945,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

U.S. Specialty Insurance Company (NAIC #29599)

BUSINESS ADDRESS: 13403 NORTHWEST FREEWAY, HOUSTON, TX 77040–6094. PHONE: (713) 462–1000. UNDERWRITING LIMITATION b/: $53,072,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

ULLICO Casualty Company (NAIC #37893)

BUSINESS ADDRESS: 1625 Eye St., NW., Washington, DC 20006. PHONE: (202) 682–0900 x–8914. UNDERWRITING LIMITATION b/: $10,281,000. SURETY LICENSES ;c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

United Casualty and Surety Insurance Company (NAIC #36226)

BUSINESS ADDRESS: 170 Milk Street, Boston, MA 02109. PHONE: (617) 542–3232 x-109. UNDERWRITING LIMITATION b/: $413,000. SURETY LICENSES c,f/: CT, DC, FL, MD, MA, NH, NJ, NY, PA. INCORPORATED IN: Massachusetts.

United Fire & Casualty Company (NAIC #13021)

BUSINESS ADDRESS: P. O. BOX 73909, CEDAR RAPIDS, IA 52407–3909. PHONE: (319) 399–5700. UNDERWRITING LIMITATION b/: $57,854,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

UNITED FIRE & INDEMNITY COMPANY (NAIC #19496)

BUSINESS ADDRESS: P.O. BOX 73909, CEDAR RAPIDS, IA 52407–3909.

PHONE: (319) 399–5700. UNDERWRITING LIMITATION b/: $1,577,000. SURETY LICENSES c,f/: AL, CO, IN, KY, LA, MS, MO, NM, TX. INCORPORATED IN: Texas.

United States Fidelity and Guaranty Company (NAIC #25887)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $245,795,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

United States Fire Insurance Company (NAIC #21113)

BUSINESS ADDRESS: 305 Madison Avenue, Morristown, NJ 07962. PHONE: (973) 490–6600. UNDERWRITING LIMITATION b/: $43,261,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

United States Surety Company (NAIC #10656)

BUSINESS ADDRESS: P.O. Box 5605, Timonium, MD 21094–5605. PHONE: (410) 453–9522. UNDERWRITING LIMITATION b/: $3,211,000. SURETY LICENSES c,f/: CT, DE, DC, FL, GA, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV. INCORPORATED IN: Maryland.

United Surety and Indemnity Company (NAIC #44423)

BUSINESS ADDRESS: P.O. BOX 2111, SAN JUAN, PR 00922–2111. PHONE: (787) 625–1105. UNDERWRITING LIMITATION b/: $6,213,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

UNIVERSAL INSURANCE COMPANY (NAIC #31704)

BUSINESS ADDRESS: GPO BOX 71338, SAN JUAN, PR 00936. PHONE: (787) 706–7155. UNDERWRITING LIMITATION b/: $24,535,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

Universal Surety Company (NAIC #25933)

BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. PHONE: (402) 435–4302. UNDERWRITING LIMITATION b/: $8,366,000. SURETY LICENSES c,f/: AZ, AR, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NM, ND, OH, OK, OR, SD, UT, WA, WI, WY. INCORPORATED IN: Nebraska.

UNIVERSAL UNDERWRITERS INSURANCE COMPANY (NAIC #41181)

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 18TH FLOOR, SCHAUMBURG, IL 60196–1056. PHONE: (847) 605–6000. UNDERWRITING LIMITATION b/: $34,372,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Kansas.

Utica Mutual Insurance Company (NAIC #25976)

BUSINESS ADDRESS: POST OFFICE BOX 530, UTICA, NY 13503–0530. PHONE: (315) 734–2000. UNDERWRITING LIMITATION b/: $72,883,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

VAN TOL SURETY COMPANY, INCORPORATED (NAIC #30279)

BUSINESS ADDRESS: 520 6TH STREET, BROOKINGS, SD 57006. PHONE: (605) 696–2239. UNDERWRITING LIMITATION b/: $491,000. SURETY LICENSES c,f/: SD. INCORPORATED IN: South Dakota.

Vigilant Insurance Company (NAIC #20397)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (212) 612–4000. UNDERWRITING LIMITATION b/: $21,265,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Washington International Insurance Company (NAIC #32778)

BUSINESS ADDRESS: 475 North Martingale Road, Suite 850, Schaumburg, IL 60173. PHONE: (603) 644–6600. UNDERWRITING LIMITATION b/: $6,072,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

West American Insurance Company (NAIC #44393)

BUSINESS ADDRESS: 350 E. 96th Street, Indianapolis, IN 46240. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $23,495,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

WEST BEND MUTUAL INSURANCE COMPANY (NAIC #15350)

BUSINESS ADDRESS: 1900 South 18th Avenue, West Bend, WI 53095. PHONE: (262) 334–5571. UNDERWRITING LIMITATION b/: $54,203,000. SURETY LICENSES c,f/: IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, WI. INCORPORATED IN: Wisconsin.

Westchester Fire Insurance Company (NAIC #10030)

BUSINESS ADDRESS: 436 WALNUT STREET, P.O. BOX 1000, Philadelphia, PA 19106. PHONE: (215) 640–1000. UNDERWRITING LIMITATION b/: $104,497,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Western Bonding Company (NAIC #13191)

BUSINESS ADDRESS: 675 West Moana Lane, Suite 200, Reno, NV 89509. PHONE: (775) 829–6650. UNDERWRITING LIMITATION b/: $351,000. SURETY LICENSES c,f/: NV, UT. INCORPORATED IN: Utah.

Western Surety Company (NAIC #13188)

BUSINESS ADDRESS: P.O. Box 5077, Sioux Falls, SD 57117–5077. PHONE: (605) 336–0850. UNDERWRITING LIMITATION b/: $81,813,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Dakota.

Westfield Insurance Company (NAIC #24112)

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251–5001. PHONE: (330) 887–0101. UNDERWRITING LIMITATION b/: $74,634,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Westfield National Insurance Company (NAIC #24120)

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251–5001. PHONE: (330) 887–0101. UNDERWRITING LIMITATION b/: $19,316,000. SURETY LICENSES c,f/: AZ, CA, FL, GA, IL, IN, IA, KY, MI, MN, ND, OH, PA, SD, TN, TX, WV, WI. INCORPORATED IN: Ohio.

Westport Insurance Corporation (NAIC #39845)

BUSINESS ADDRESS: P.O. Box 2991, OVERLAND PARK, KS 66202–1391. PHONE: (913) 676–5200. UNDERWRITING LIMITATION b/: $167,612,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

WHITE MOUNTAINS REINSURANCE COMPANY OF AMERICA (NAIC #38776)

BUSINESS ADDRESS: ONE LIBERTY PLAZA—18TH FLOOR, NEW YORK, NY 10006–1404. PHONE: (212) 312–2500. UNDERWRITING LIMITATION b/: $74,256,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DC, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MS, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, TX, UT, VA, WA, WI. INCORPORATED IN: New York.

XL Reinsurance America Inc. (NAIC #20583)

BUSINESS ADDRESS: SEAVIEW HOUSE, 70 SEAVIEW AVENUE, STAMFORD, CT 06902. PHONE: (203) 964–5200. UNDERWRITING LIMITATION b/: $164,241,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

XL Specialty Insurance Company (NAIC #37885)

BUSINESS ADDRESS: SEAVIEW HOUSE, 70 SEAVIEW AVENUE, STAMFORD, CT 06902. PHONE: (203) 964–5200. UNDERWRITING LIMITATION b/: $17,875,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Zurich American Insurance Company (NAIC #16535)

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 18TH FLOOR, SCHAUMBURG, IL 60196–1056. PHONE: (847) 605–6000. UNDERWRITING LIMITATION b/: $666,941,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Certified Reinsurer Companies

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE REINSURING COMPANIES UNDER SECTION 223.3(b) OF TREASURY CIRCULAR NO. 297. [See Note (e)]

Odyssey America Reinsurance Corporation (NAIC #23680) *3*

Odyssey Reinsurance Company (NAIC #23680) *3*

BUSINESS ADDRESS: 300 First Stamford Place, Stamford, CT 06902. PHONE: (203) 977–8000. UNDERWRITING LIMITATION B/: $297,304,000. SURETY LICENSES c,f/:.

Phoenix Insurance Company (The) (NAIC #25623)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION B/: $120,109,000. SURETY LICENSES c,f/:.

Platinum Underwriters Reinsurance, Inc. (NAIC #10357)

BUSINESS ADDRESS: 225 Liberty Street, Suite 2300, New York, NY 10281. PHONE: (212) 238–9600. UNDERWRITING LIMITATION B/: $55,195,000. SURETY LICENSES c,f/:.

SAFECO Insurance Company of Illinois (NAIC #39012)

BUSINESS ADDRESS: 27201 Bella Vista Parkway, Suite 130, Warrenville, IL 60555. PHONE: (617) 357–9500. UNDERWRITING LIMITATION B/: $18,883,000. SURETY LICENSES c,f/:.

Safeco National Insurance Company (NAIC #24759)

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (617) 357–9500. UNDERWRITING LIMITATION B/: $6,574,000. SURETY LICENSES c,f/:.

St. Paul Protective Insurance Company (NAIC #19224)

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310–7911. UNDERWRITING LIMITATION B/: $23,440,000. SURETY LICENSES c,f/:.

Footnotes

[1] AMERICAN CONTRACTORS INDEMNITY COMPANY (NAIC# 10216) is required by state law to conduct business in the state of Texas as TEXAS BONDING COMPANY. However, business is conducted in all other covered states as AMERICAN CONTRACTORS INDEMNITY COMPANY.

[2] International Fidelity Insurance Company's (NAIC# 11592) name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular. Do not hesitate to contact the Company to verify the authenticity of a bond.

[3] Odyssey America Reinsurance Corporation (NAIC# 23680) formally changed its name to Odyssey Reinsurance Company. The effective

date of the name change is February 18, 2011.

Notes

(a) All Certificates of Authority expire June 30, and are renewable July 1, annually. Companies holding Certificates of Authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.

(b) The Underwriting Limitations published herein are on a per bond basis. Treasury requirements do not limit the penal sum (face amount) of bonds which surety companies may provide. However, when the penal sum exceeds a company's Underwriting Limitation, the excess must be protected by co-insurance, reinsurance, or other methods in accordance with 31 CFR Section 223.10, Section 223.11. Treasury refers to a bond of this type as an Excess Risk. When Excess Risks on bonds in favor of the United States are protected by reinsurance, such reinsurance is to be effected by use of a Federal reinsurance form to be filed with the bond or within 45 days thereafter. In protecting such excess risks, the underwriting limitation in force on the day in which the bond was provided will govern absolutely. For further assistance, contact the Surety Bond Branch at (202) 874–6850.

(c) A surety company must be licensed in the State or other area in which it provides a bond, but need not be licensed in the State or other area in which the principal resides or where the contract is to be performed [28 Op. Atty. Gen. 127, Dec. 24, 1909; 31 CFR Section 223.5 (b)]. The term ''other area'' includes the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands.

License information in this Circular is provided to the Treasury Department by the companies themselves. *For updated license information, you may contact the company directly or the applicable State Insurance Department.* Refer to the list of state insurance departments at the end of this publication. For further assistance, contact the Surety Bond Branch at (202) 874–6850.

(d) FEDERAL PROCESS AGENTS: Treasury Approved surety companies are required to appoint Federal process agents in accord with 31 U.S.C. 9306 and 31 CFR 224.

(e) Companies holding Certificates of Authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds and may not directly write Federal bonds.

(f) Some companies may be Approved surplus lines carriers in various states. Such approval may indicate that the company is authorized to write surety in a particular state, even though the company is not licensed in the state. Questions related to this may be directed to the appropriate State Insurance Department. Refer to the list of state insurance departments at the end of this publication.

State insurance departments	Telephone No.
Alabama, Montgomery 36104	(334) 269–3550
Alaska, Anchorage 99501–3567	(907) 269–7900
Arizona, Phoenix 85018–7256	(602) 364–3100
Arkansas, Little Rock 72201–1904	(501) 371–2600
California, Sacramento 95814	(213) 897–8921
Colorado, Denver 80202	(303) 894–7499
Connecticut, Hartford 06142–0816	(860) 297–3800
Delaware, Dover 19904	(302) 674–7390
District of Columbia, Washington 20002	(202) 442–7813
Florida, Tallahassee 32399–6502	(850) 413–3132
Georgia, Atlanta 30334	(404) 656–2056
Hawaii, Honolulu 96813	(808) 586–2790
Idaho, Boise 83720–0043	(208) 334–4250
Illinois, Springfield 62767–0001	(217) 782–4515
Indiana, Indianapolis 46204–2787	(317) 232–2385
Iowa, Des Moines 50319–0065	(515) 281–5705
Kansas, Topeka 66612–1678	(785) 296–3071
Kentucky, Frankfort 40602–0517	(502) 564–6082
Louisiana, Baton Rouge 70802	(225) 342–1200
Maine, Augusta 04333–0034	(207) 624–8475
Maryland, Baltimore 21202–2272	(410) 468–2006
Massachusetts, Boston 02110	(617) 521–7794
Michigan, Lansing 48933–1020	(517) 373–0220
Minnesota, St. Paul 55101–2198	(651) 296–6319
Mississippi, Jackson 39201	(601) 359–3569
Missouri, Jefferson City 65102	(573) 751–4126
Montana, Helena 59601	(406) 444–2040
Nebraska, Lincoln 68508	(402) 471–2201
Nevada, Carson City 89701–5753	(775) 687–4270
New Hampshire, Concord 03301	(603) 271–2261
New Jersey, Trenton 08625	(609) 292–5360
New Mexico, Santa Fe 87504–1269	(800) 947–4722
New York, New York 10004–2319	(212) 480–5027
North Carolina, Raleigh 27611	(919) 807–6750
North Dakota, Bismarck 58505–0320	(701) 328–2440
Ohio, Columbus 43215	(614) 644–2658
Oklahoma, Oklahoma City 73112	(405) 521–2828
Oregon, Salem 97301–3883	(503) 947–7980
Pennsylvania, Harrisburg 17120	(717) 789–3840
Puerto Rico, Santurce 00968	(787) 304–8686
Rhode Island, Providence 02903–4233	(401) 462–9500
South Carolina, Columbia 29202–3105	(803) 737–6160
South Dakota, Pierre 57501–3185	(605) 773–4104
Tennessee, Nashville 37243–0565	(615) 741–2218
Texas, Austin 78714	(800) 252–3439

State insurance departments	Telephone No.
Utah, Salt Lake City 84114–1201	(801) 538–3800
Vermont, Montpelier 05602	(802) 828–3301
Virginia, Richmond 23218	(800) 552–7945
Virgin Islands, St. Thomas 00802	011 (340) 774–7166
Washington, Olympia 98504–0256	(360) 725–7144
West Virginia, Charleston 25305–0540	(304) 558–3386
Wisconsin, Madison 53707–7873	(608) 266–3586
Wyoming, Cheyenne 82002–0440	(307) 777–7401

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Part VI

Department of Health and Human Services

42 CFR Part 88
World Trade Center Health Program Requirements for Enrollment, Appeals, Certification of Health Conditions, and Reimbursement; Interim Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Docket No. CDC–2011–0009]

42 CFR Part 88

RIN 0920–AA44

World Trade Center Health Program Requirements for Enrollment, Appeals, Certification of Health Conditions, and Reimbursement

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Interim final rule with request for comments.

SUMMARY: Title I of the James Zadroga Health and Compensation Act of 2010 amended the Public Health Service Act (PHS Act) by adding Title XXXIII, which establishes the World Trade Center (WTC) Health Program. Sections 3311, 3312, and 3321 of Title XXXIII of the PHS Act require that the WTC Program Administrator develop regulations to implement portions of the WTC Health Program established within the Department of Health and Human Services (HHS). The WTC Health Program, which will be administered in part by the Director of the National Institute for Occupational Safety and Health (NIOSH), within the Centers for Disease Control and Prevention (CDC), will provide medical monitoring and treatment to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers who responded to the September 11, 2001, terrorist attacks in New York City, Shanksville, PA, and at the Pentagon, and to eligible survivors of the New York City attacks. This interim final rule establishes the processes by which eligible responders and survivors may apply for enrollment in the WTC Health Program, obtain health monitoring and treatment for WTC-related health conditions, and appeal enrollment and treatment decisions. This interim final rule also establishes a process for the certification of health conditions, and reimbursement rates for providers who provide initial health evaluations, treatment, and health monitoring.

DATES: Effective July 1, 2011. Written comments from interested parties on this interim final rule and on the information collection approval request sought under the Paperwork Reduction Act must be received by August 30, 2011.

ADDRESSES: You may submit comments, identified by ''RIN 0920–AA44,'' by any of the following methods:

- *Internet:* Access the Federal e-rulemaking portal at *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail:* NIOSH Docket Officer, *nioshdocket@cdc.gov.* Include ''RIN 0920–AA44'' and ''42 CFR 88'' in the subject line of the message.
- *Mail:* NIOSH Docket Office, Robert A. Taft Laboratories, MS–C34, 4676 Columbia Parkway, Cincinnati, OH 45226.

Instructions: All submissions received must include the agency name and docket number or Regulation Identifier Number (RIN) for this rulemaking. All comments will be posted without change to *http://www.regulations.gov* and *http://www.cdc.gov/niosh/docket/NIOSHdocket0235.html,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, please go to *http://www.regulations.gov* or *http://www.cdc.gov/niosh/docket/NIOSHdocket0235.html.*

FOR FURTHER INFORMATION CONTACT: Roy M. Fleming, Sc.D., Senior Science Advisor, World Trade Center Health Program, Office of the Director, National Institute for Occupational Safety and Health, 1600 Clifton Road, NE., MS–E74, Atlanta, GA 30329; telephone 866–426–3673 (this is a toll-free number). Information requests may also be submitted by e-mail to *wtcpublicinput@cdc.gov.*

SUPPLEMENTARY INFORMATION:

This preamble is organized as follows:

I. Public Participation

Interested persons or organizations are invited to participate in this rulemaking by submitting written views, opinions, recommendations, and data. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. HHS will consider those submissions and may revise the final rule as appropriate.

Comments are invited on any topic related to this interim final rule. In addition, HHS invites comments specifically on the following questions related to this rulemaking:

1. The PHS Act requires ''1 day'' of presence for a number of eligibility criteria for firefighters and related personnel (see § 88.4(a)(1) of the interim final rule text), members of the New York City Police Department (see § 88.4((a)(2)(ii)), and vehicle maintenance-workers (see § 88.4(a)(5))to be enrolled. For the purposes of this regulation, the Department has interpreted the statutory intent of 1 day to be a full work shift, of at least 4 hours but less than 24 hours. Is there a different interpretation of 1 day that the Department should consider?

2. The medical necessity standard established in this interim final rule relies heavily on the medical protocols to be developed by the Data Centers and approved by the WTC Program Administrator, and incorporates the qualitative factors that treatment be reasonable and appropriate based on scientific evidence, professional standards of care, expert opinion, and other relevant information. Is the substantial reliance on approved medical protocols appropriate? Are the factors specified necessary and sufficient? Are there specific standards currently in use by other programs, either Federal or in private sector health care organizations that would be appropriate for use in the WTC Health Program?

3. The interim final rule implements Federal Employees Compensation Act (FECA) rates for reimbursing initial health evaluations, health monitoring, and medically necessary treatment

provided in the WTC Health Program. The use of FECA rates for treatment is specified by the PHS Act. The rule also employs applicable Medicare payment rate schedules for treatment that is not covered by FECA rates. Is there any system of rates other than Medicare that should be considered for treatment that is not covered by FECA? Note that section 3312 of the PHS Act prohibits payments for products or services made at a higher rate than the Office of Workers' Compensation Programs in the Department of Labor.

II. Background

A. WTC Medical Monitoring and Treatment Program and Environmental Health Center Community Program History

Since the tragic events of September 11, 2001, HHS, CDC, and NIOSH have facilitated health evaluations for those firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers who responded to the WTC disaster sites. A health screening program for responders began in 2002 under contracts awarded to the Mount Sinai School of Medicine (Mount Sinai) and the Fire Department, City of New York. Mount Sinai subcontracted with other specialty occupational health clinics in the New York metropolitan area to expand enrollment and provide a standardized and comprehensive health screening protocol.

In 2003, Congress appropriated further funding to implement longer term medical monitoring for these responders. The occupational health specialty clinics involved in the screening program were each directly funded through cooperative agreements with NIOSH to work collaboratively and provide periodic standardized medical monitoring exams. Participants in the initial screening program were enrolled beginning in 2004.

In 2006, Congress appropriated additional funds for diagnostic and treatment services to support medical care for health conditions associated with WTC-related work exposures. After receiving appropriations for treatment, the program was re-named the WTC Medical Monitoring and Treatment Program (MMTP) to reflect expanded services to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers The established program providers were funded as Clinical Centers of Excellence (Clinical Centers), reflecting their multidisciplinary expertise and extensive program experience with the WTC responder population. The MMTP made monitoring exams and treatment available to firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers living outside the New York metropolitan area and geographically distant from the established Clinical Centers through a network of providers. The health conditions covered under the MMTP were identified by the Clinical Centers based on assessments of the health needs of the firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers and with input from scientific and medical experts, and included certain upper and lower airway diseases, esophageal disorders from acid reflux, musculoskeletal injuries, and mental health problems (most notably post-traumatic stress disorder, anxiety, and depression).

In 2008, Congress appropriated additional funds for the WTC Environmental Health Center (EHC) Community Program, which provided initial health evaluations, diagnostic and treatment services for residents, students, and others in the community who were affected by the September 11, 2001, terrorist attacks in New York City.

B. WTC Health Program Statutory Authority

Title I of the James Zadroga 9/11 Health and Compensation Act of 2010, (Pub. L. 111–347), amended the PHS Act to add Title XXXIII [1] establishing the World Trade Center (WTC) Health Program within HHS. The WTC Health Program will assume the functions and goals of the MMTP and the WTC EHC Community Program to provide medical monitoring and treatment benefits to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers (including those who are Federal employees) who responded to the September 11, 2001, terrorist attacks, as well as those residents and other building occupants and area workers in New York City who were directly impacted and adversely affected by the attacks.

The WTC Health Program will expand to include any eligible firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers who responded to the September 11, 2001, terrorist attacks at the Pentagon and Shanksville, PA. Section 3311(a)(2)(C)(ii) of Title XXXIII requires that the WTC Program Administrator develop eligibility criteria for Pentagon and Shanksville, PA emergency responders after consultation with the WTC Scientific/Technical Advisory Committee. HHS is in the process of establishing this new Federal advisory committee and the WTC Program Administrator will obtain the required consultation as soon as possible. However, because no Pentagon or Shanksville, PA responders have participated in the existing health program, the WTC Program Administrator currently lacks information that may serve as a basis for such enrollment, including information on participation in the response at these two sites and on hazard exposure circumstances at these sites relevant to currently established WTC health conditions. The WTC Program Administrator will be collecting such information.

Title XXXIII of the PHS Act directs the Secretary of HHS to designate a Department official to be the WTC Program Administrator (Title XXXIII, § 3306(14)). Certain specific activities of the WTC Program Administrator are reserved to the Secretary to delegate at her discretion; other WTC Program Administrator duties not explicitly reserved to the Secretary are assigned to the Director of NIOSH or his or her designee. This rule implements portions of the PHS Act which were both given to the Director of NIOSH and others for which the HHS Secretary has designated the Director of NIOSH to be the WTC Program Administrator. Another HHS component, Centers for Medicare & Medicaid Services, has been delegated responsibilities for disbursing payments to providers under the WTC Health Program (see Delegation of Authority, 76 FR 31337, May 31, 2011). All references to the WTC Program Administrator in this notice mean the NIOSH Director or his or her designee.

Under § 3306 of Title XXXIII of the PHS Act, the WTC Program Administrator is responsible for a program to enroll qualified firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers who responded to the New York City, Pentagon, and Shanksville, PA disaster sites; screen and certify qualified survivors of the New York City attacks; and to establish a nationwide system of healthcare providers to provide monitoring and treatment to those individuals found eligible. The WTC Program Administrator is also required to promulgate regulations to determine medical necessity with respect to

[1] Title XXXIII of the Public Health Service Act is codified at 42 U.S.C. 300mm to 300mm–61. Those portions of the Zadroga Act found in Titles II and III of Public Law 111–347 do not pertain to the World Trade Center Health Program and are codified elsewhere.

healthcare services and prescription pharmaceuticals; to certify WTC-related health conditions identified in the statute; and to establish processes for appealing WTC Health Program determinations. Those statutory requirements are included in this interim final rule and are described in the summary of the proposed rule below.

Title XXXIII of the PHS Act also authorizes the WTC Program Administrator to establish a process by which health conditions, including types of cancer, may be considered for addition to the list of WTC-related health conditions. Those provisions are included in a notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**.

Title XXXIII of the PHS Act further authorizes the WTC Program Administrator to promulgate regulations to add eligibility criteria for Pentagon and Shanksville, PA responders after consultation with the WTC Health Program Scientific/Technical Advisory Committee. The eligibility criteria for those responders will be developed by future rulemaking.

C. Implementation of the WTC Health Program

As required by Title XXXIII of the PHS Act, this regulation establishes the process by which individuals who were firefighters and related personnel, law enforcement officers, rescue, recovery and cleanup workers who responded to the September 11, 2001, terrorist attacks in New York City or survivors associated with the September 11, 2001, terrorist attacks in New York City may be enrolled in the WTC Health Program. For firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers who were included in the previous MMTP program before July 1, 2011, enrollment in the newly established WTC Health Program will not require any new application, although enrollment is predicated on ensuring that the individual's name is not found to be a positive match to the terrorist watch list maintained by the Federal government. Similarly, survivors of the New York City terrorist attack who have been identified as eligible for medical treatment and follow-up monitoring services in the WTC EHC Community Program as of January 2, 2011, will not be required to file a new application to the WTC Health Program, but are also subject to watch list screening.

All firefighters and related personnel, law enforcement officers and rescue, recovery and cleanup workers who responded to the New York City attack who will be newly seeking medical monitoring and treatment and survivors of the attack who were not covered by the WTC EHC Community Program on or before January 2, 2011, may apply to obtain coverage under the new WTC Health Program established by this rule. The application process for responders and survivors is established by this interim final rule.

An individual who believes that he or she qualifies as a WTC responder (a 'WTC responder' is defined in the interim final rule text as an individual who has been identified as eligible for monitoring and treatment as described in § 88.3 of the interim final rule, or who meets the eligibility criteria in § 88.4) must fill out an application form indicating that he or she meets certain eligibility criteria described in § 88.4. Firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers may submit an application to the WTC Health Program beginning on July 1, 2011. An individual who can demonstrate that he or she was firefighter or related personnel, law enforcement officer, or rescue, recovery or cleanup worker who participated at or within a certain distance of the Ground Zero site or at a specified location for the requisite amount of time may be enrolled in the WTC Health Program. If no documentation of eligibility is submitted with the application (*e.g.,* a pay stub or personnel roster), the individual must explain how he or she attempted to find documentation and why the attempt was unsuccessful. The application must be signed by the applicant. An applicant who knowingly provides false information may be subject to a fine and/or imprisonment of not more than 5 years.

A similar application process is established for survivors who were not enrolled in the WTC EHC Community Program prior to January 2, 2011. Those survivors may submit applications to the WTC Health Program beginning on July 1, 2011. An individual who believes that he or she can qualify as a screening-eligible survivor must fill out an application form indicating that he or she meets certain eligibility criteria described in § 88.8 of the regulatory text. An individual who can demonstrate that he or she was a survivor who was present in the New York City disaster area may be found eligible to receive medical screening to determine if he or she has a health condition covered by the WTC Health Program. As with the WTC responder application, if no documentation of eligibility (*e.g.,* a lease or utility bill) is submitted with the application, the applicant must explain how he or she attempted to find documentation and why the attempt was unsuccessful. The application must be signed by the applicant. An applicant who knowingly provides false information may be subject to a fine and/or imprisonment of not more than 5 years. If the individual is found to have a covered health condition, he or she may be considered a certified-eligible survivor.

Once enrolled in the WTC Health Program, a WTC responder or certified-eligible survivor may receive treatment for specific physical and mental health conditions that have been certified by the WTC Health Program and that are included on the list of WTC-related health conditions. The list of these health conditions was established by Congress and is repeated in § 88.1, the definitions section of this rule. The list may be amended in the future to add other health conditions

for which exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, terrorist attacks, based on an examination by a medical professional with experience in treating or diagnosing the health conditions included in the applicable list of WTC-related health conditions, is substantially likely to be a significant factor in aggravating, contributing to, or causing the illness or condition (Title XXXIII, § 3312(a)(1)(A)(i)).

The eligibility criteria and application process for individuals who responded to the September 11, 2001, terrorist attacks at the Pentagon and Shanksville, PA, will be developed as soon as possible. As discussed above, this will require additional research and consultation that could not be completed prior to this rulemaking (see Section II.B.).

III. Issuance of an Interim Final Rule With Immediate Effective Date

Rulemaking under the Administrative Procedure Act (APA) generally requires a public notice and comment period and consideration of the submitted comments prior to promulgation of a final rule having the effect of law (5 U.S.C. 553). However, the APA provides for exceptions to its notice and comment procedures when an agency finds that there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. In the case of this interim final rule, we have determined that under 5 U.S.C. 553(b)(B), good cause exists for waiving the notice and comment procedures. For similar reasons, HHS has also determined that good cause exists under 5 U.S.C. 553(d)(3) for this

interim final rule to become effective immediately.

The James Zadroga 9/11 Health and Compensation Act of 2010 was signed by the President on January 2, 2011. It amended the PHS Act to establish the WTC Health Program, administered by the WTC Program Administrator, and mandated that this program begin on July 1, 2011, just 6 months after enactment.

HHS has determined that interim regulatory provisions are necessary to implement certain provisions of Title XXXIII relating to: (1) The WTC Health Program's ability to ensure that those currently identified responders and survivors who are already receiving care under the previous program continue to receive medical monitoring and treatment benefits without interruption; (2) the WTC Health Program's ability to accept applications from responders beginning July 1, 2011 and survivors shortly thereafter; (3) the right of applicants and enrollees to appeal determinations made by the WTC Health Program; and (4) the guidelines by which WTC-related health conditions are diagnosed and certified. HHS has determined that it is not possible to complete the steps necessary for the usual notice and comment under the APA in time for the WTC Health Program to become effective by July 1, 2011.

There is a strong public interest in ensuring the continuation of monitoring and treatment benefits for those responders and survivors who were previously receiving such care. Congress has also expressed the need for ensuring the continuation of monitoring and treatment (Title XXXIII, § 3305(b)(1)(C)). In addition, there is an immediate need to initiate the process to continue to enroll those who responded to this nation's worst terrorist attacks and were harmed in the performance of their duties. These concerns are clearly reflected in the Congressional mandate to swiftly implement this program. It is especially important that currently identified responders and survivors who will be transferring to the new WTC Health Program be provided prompt guidance on how it will operate. *Coalition for Parity, Inc.* v. *Sebelius,* 709 F. Supp.2d 10, 15 (DC Cir. 2010) (need for prompt regulatory guidance among the factors in justifying an interim rule). HHS is working as quickly as possible to provide this guidance by issuing this interim final rule. An undue delay in enrolling and implementing certification of treatment procedures under the new program would result in real harm to those who were in the previous treatment program. With the publication of this interim final rule, we can ensure that the necessary guidance is provided promptly to those responders and survivors currently identified and to those responders seeking to enroll, and that monitoring and treatment benefits are continued.

For similar reasons, HHS is making this interim final rule effective immediately. In making this determination, we have balanced the need for an immediately-effective rule in order to allow for continued treatment and care for responders and survivors against fairness considerations and the needs of affected parties to have time to adjust to the rule's requirements. *Omnipoint Corporation* v. *Federal Communications Commission,* 78 F.3d 620, 630 (DC Cir. 1996). HHS believes the need for continuation of monitoring and treatment is paramount and necessitates that this interim final rule be effective immediately.

While developing this interim rule, HHS reached out to the affected community through a public meeting (76 FR 7862, February 11, 2011), a request for comments on the implementation of Title XXXIII of the PHS Act (76 FR 12360, March 7, 2011), and other outreach efforts to interested parties. Although HHS is adopting this rule on an interim final basis, we request public comment on this rule. After full consideration of public comments, HHS will work as expeditiously as possible to publish a final rule with any necessary changes.

IV. Summary of Interim Final Rule

The section-by-section summaries provided below describe the components of the WTC Health Program for which the WTC Program Administrator has been delegated authority by the Secretary of HHS, under Title XXXIII. The components implemented here include: enrollment of WTC responders; certification of screening-eligible or certified-eligible survivors; and payment for initial health evaluation, monitoring, and treatment of covered individuals. Certain paragraphs are reserved for provisions that will be promulgated by notice-and-comment rulemaking at such time as is determined by the WTC Program Administrator.

Section 88.1 Definitions

This section of the regulation includes definitions for the principal terms used in part 88. It includes terms specifically defined in Title XXXIII.

The ''WTC Program Administrator'' is defined, for purposes of this regulation, as the Director of the National Institute for Occupational Safety and Health or his or her designee.

''WTC responder,'' ''screening-eligible survivor,'' and ''certified-eligible survivor,'' refer to individuals who are found to be eligible to participate in certain aspects of the WTC Health Program. ''WTC responder'' is a term defined in Title XXXIII. It is used to refer not only to people who worked or volunteered in rescue, recovery, and clean-up at the site of the terrorist attacks in New York City but also to those individuals who participated in those activities at the sites in Shanksville, PA and the Pentagon. ''Screening-eligible survivors'' are individuals who meet the initial eligibility requirements found in § 88.8 and are thus approved to have an initial health evaluation. ''Certified-eligible survivors'' are individuals who have at least one WTC-related health condition for which he or she qualified for treatment benefits and follow-up monitoring services.

The terms ''list of WTC-related health conditions,'' and ''WTC-related health condition'' refer to those conditions specifically designated in Title XXXIII and to any future conditions that may be added to that list by the WTC Program Administrator in subsequent rulemakings. A ''health condition medically associated with a WTC-related health condition'' is a condition that results from the treatment of a condition on the list of WTC-related health conditions or from the natural progression of one of those conditions.

''Clinical Centers of Excellence'' and the ''nationwide provider network'' are the medical providers meeting specified statutory requirements and are affiliated with the WTC Health Program by contract.

''Terrorist watch list'' is included to incorporate the statutory requirement that no individual who is determined to be a positive match to the watch list maintained by the Federal government shall qualify to become a WTC responder or screening-eligible or certified-eligible survivor. The PHS Act inadvertently identifies the watch list as being maintained by the Department of Homeland Security; the watch list is in fact maintained by the Terrorist Screening Center of the Federal Bureau of Investigation, Department of Justice.

Section 88.2 General Provisions

Paragraph (a) of this section establishes that an enrolled WTC responder, a screening-eligible survivor, or a certified-eligible survivor may designate one person to represent their interests related to applying to or seeking treatment from the WTC Health

Program. The provisions of this section specify that a WTC responder or eligible survivor can have only one individual represent him or her at a time; identifies those individuals for whom a Federal employee may act as a designated representative; and specifies that a parent or guardian may act on behalf of a minor seeking monitoring or treatment under the WTC Health Program. HHS believes it is important and necessary to provide a means for an enrollee who is a minor child or who is otherwise unable to represent himself or herself to be able to designate the person who will represent the enrollee in the Program.

Section 88.3 Eligibility—Currently Identified Responders

This section restates the eligibility criteria, as outlined in Title XXXIII, § 3311 of the PHS Act, for WTC responders who have received medical monitoring and treatment benefits from the MMTP program. Under § 88.3(a), responders who have been identified as eligible for program benefits prior to July 1, 2011, by the MMTP will be automatically enrolled in the WTC Health Program. These individuals are not required to submit an application for enrollment. As required by statute, an individual who meets the eligibility criteria under (a) of this section is not qualified to enroll in the WTC Health Program if the individual is determined to be a positive match to the terrorist watch list.

Section 88.4 Eligibility Criteria—Status as a WTC Responder

The eligibility criteria in § 88.4 apply to those firefighters, law enforcement officers, certain employees of the Office of the Chief Medical Examiner of New York City, Port Authority Trans-Hudson Corporation Tunnel Workers, vehicle-maintenance workers, and other rescue, recovery, and cleanup workers not previously identified as eligible under the MMTP. New applicants will be considered for enrollment according to the criteria provided in paragraph(a), which describes individuals who conducted rescue, recovery, and cleanup at the World Trade Center sites (including Ground Zero, the Staten Island Landfill, or the New York City Chief Medical Examiner's Office), for specific lengths of time during the dates specified.

Paragraphs (b) and (c) are reserved for eligibility criteria for responders to the September 11, 2001, terrorist attack sites in Shanksville, PA and at the Pentagon. Paragraph (d) is reserved for any modified eligibility criteria that may be developed in the future.

Paragraph (e) states that the WTC Program Administrator will keep a list of enrolled WTC responders.

Section 88.5 Application Process—Status as a WTC Responder

This section informs applicants who believe they meet the eligibility criteria for a WTC responder how to apply for enrollment in the WTC Health Program. The provisions of this section require that the individual submit an application and provide evidence of eligibility under the provisions of § 88.4. The applicant must provide documentary evidence of his or her employment and type of work activity during the rescue, recovery, and debris cleanup periods after the terrorist attacks. The WTC Health Program will accept a pay stub, official personnel roster, site credentials or other similar documents to establish that the applicant meets the eligibility criteria. If no documentation is submitted with the application, the applicant must explain how he or she attempted to find documentation and why he or she was unsuccessful. The application must be signed by the applicant, under penalty of perjury. An applicant who knowingly provides false information may be subject to fines and criminal penalties under 18 U.S.C. 1001 and 18 U.S.C. 1621.

Section 88.6 Enrollment Determination—Status as a WTC Responder

This section explains how and when the WTC Program Administrator will promptly notify the applicant of the enrollment decision. The WTC Program Administrator will evaluate applications on a first-come, first-served basis; applicants will be promptly notified if there are any deficiencies in the application or supporting materials.

An applicant will be denied enrollment in the Program if he or she does not meet the eligibility criteria in § 88.4; if the numerical limitations established by Congress are met, or the WTC Program Administrator determines that funds are insufficient to continue accepting new enrollees into the Program; or if the individual is determined to be a positive match to the terrorist watch list maintained by the Federal government. Individuals denied enrollment because of the numerical limitation will be placed on a waitlist, and notified promptly when they are removed from the waitlist and enrolled in the Program.

Title XXXIII expressly states that the total number of newly-enrolled WTC responders ''shall not exceed 25,000 at any time,'' and similarly limits the total number of new certified-eligible survivors to 25,000 (§ 3311(a)(4), § 3321(a)(3)). The WTC Program Administrator is authorized to limit enrollment to a number of WTC responders and certified-eligible survivors that is less than the limit set by Congress. That determination must be based on the best available information and on the amount available funding necessary to provide treatment and monitoring benefits to all individuals who are enrolled in the program.

The qualified applicant will be notified in writing no later than 60 days after the application date. An applicant who is found ineligible for enrollment will be provided an explanation, as appropriate for that determination, and given the opportunity to appeal.

Section 88.7 Eligibility—Currently Identified Survivors

This section establishes that survivors who have been identified as eligible for medical treatment and monitoring benefits by the WTC EHC Community Program as of January 2, 2011, will be automatically enrolled in the WTC Health Program. These individuals are not required to submit an application for enrollment. As required by Title XXXIII of the PHS Act, an individual who meets the eligibility criteria under (a) of this section is not qualified to enroll in the WTC Health Program if the individual is determined to be a positive match to the terrorist watch list.

Section 88.8 Eligibility Criteria—Status as a WTC Survivor

This section restates the eligibility criteria for screening-eligible survivors established in Title XXXIII of the PHS Act. Individuals who wish to apply for benefits under the WTC Health Program may do so beginning on July 1, 2011.

New applicants to the WTC Health Program will be considered for status as a screening-eligible survivor according to the criteria provided in (a), which describes an individual who is not a WTC responder, who claims symptoms of a WTC-related health condition, and who is not an individual identified in § 88.7. Individuals who would be eligible for an initial health evaluation were, during the dates and durations specified, either present in the dust cloud; worked, lived, or attended school or daycare in the New York City disaster area; performed cleanup or maintenance work in the New York City disaster area; received a grant from the Lower Manhattan Development Corporation Residential Grant Program for a residence he or she leased or owned and lived in; or was employed in the

disaster area and received a grant from the Lower Manhattan Development Corporation or other government incentive program to revitalize the area economy.

Paragraph (b) explains that screening-eligible survivors can become certified-eligible survivors by obtaining an initial health evaluation, provided by the WTC Health Program. If the exam results in a physician's diagnosis of a WTC-related health condition, the WTC Program Administrator may certify that condition. In that case, the survivor will be considered certified-eligible.

Section 88.9 Application Process—Status as a WTC Survivor

This section informs applicants who believe they meet the eligibility criteria for a WTC survivor how to apply for screening-eligible status in the WTC Health Program. The provisions of this section require that the individual submit an application and provide documentation of his or her presence, residence, or employment in the New York City disaster area. The WTC Health Program will accept various forms of proof of presence, residence, or work activity including a written statement, under penalty of perjury, from the applicant or the applicant's employer. An applicant who is unable to submit any required documentation must instead offer a written explanation of what the individual did to try to find proof of presence, residence, or work activity and why he or she was unsuccessful. The application will be signed under penalty of perjury. Any applicant who knowingly supplies false information may be subject to fines and criminal prosecution under 18 U.S.C. 1001 and 18 U.S.C. 1621. As required by Title XXXIII, § 3321(a)(1)(A)(ii), the applicant would also be required to claim symptoms of a WTC-related health condition. A WTC-related health condition is defined as a health condition associated with exposure to adverse conditions resulting from the September 11, 2001, terrorist attacks, and identified in Title XXXIII of the PHS Act and in § 88.1. Paragraph (b) explains that an individual is not required to submit an additional application to become certified-eligible.

Section 88.10 Enrollment Determination—Status as a WTC Survivor

This section explains how and when the WTC Program Administrator will notify the applicant of the decision to enroll the individual as a screening-eligible or certified-eligible survivor. The WTC Program Administrator will evaluate applications for screening-eligible status on a first-come, first-served basis; applicants will be promptly notified if there are any deficiencies in the application or supporting materials.

An applicant will be denied enrollment in the Program if he or she does not meet the eligibility criteria for screening-eligible survivors in § 88.8; if the numerical limitations established by Congress are met, or the WTC Program Administrator determines that funds are insufficient to continue accepting new screening-eligible or certified-eligible survivors into the Program; or if the individual is determined to be a positive match to the terrorist watch list maintained by the Federal government. Individuals denied screening-eligible status because of the numerical limitation on certified-eligible survivors will be placed on a waitlist and notified promptly when they are removed from the waitlist and deemed screening-eligible.

The qualified screening-eligible status applicant will be notified in writing no later than 60 days after the application date. An applicant who is found ineligible for enrollment will be provided an explanation, as appropriate for that determination, and given the opportunity to appeal.

Paragraph (d) explains that a screening-eligible survivor will receive an initial health evaluation from a WTC Health Program Clinical Center of Excellence or a member of the nationwide provider network to determine if the individual has a WTC-related health condition. While the WTC Health Program will offer only one initial health evaluation, nothing in this rule will prohibit the screening-eligible survivor from requesting and paying for additional health evaluations.

This section also establishes that the screening-eligible survivor may be denied certified-eligible status if the individual does not have a diagnosed WTC-related health condition or if the WTC Program Administrator does not find that the physician's determination sufficiently establishes the relationship between the individual's exposure to the conditions resulting from the September 11, 2001, terrorist attacks and the health condition being claimed. The screening-eligible survivor may also be denied certified-eligible status if the numerical limitations established by Congress are met, or the WTC Program Administrator determines that funds are insufficient to continue accepting new certified-eligible survivors into the Program; or if the individual is determined to be a positive match to the terrorist watch list maintained by the Federal government. Individuals denied enrollment because of the numerical limitation will be placed on a waitlist and notified promptly when they are removed from the waitlist and deemed certified-eligible.

The newly certified-eligible survivor will be notified in writing. A screening-eligible survivor who is found ineligible for certified-eligible status will be provided an explanation, as appropriate for that determination, and given the opportunity to appeal.

Section 88.11 Appeals Regarding Eligibility Determinations—Responders and Survivors

This section establishes procedures for the appeal of a WTC Program Administrator's decision not to enroll an individual who believes he or she meets the eligibility criteria for enrollment as a WTC responder or screening-eligible survivor. The individual or his or her designated representative may appeal the decision in writing within 60 days of the decision. The appeal must contain the reasons the individual believes the decision is incorrect, and may also include relevant information that was not previously considered by the WTC Program Administrator. If the individual is denied because his or her name is determined to be a positive match to the terrorist watch list, the appeal will be forwarded to the appropriate Federal agency. Upon receipt and review of the appeal, the WTC Program Administrator will designate the NIOSH Associate Director for Science, a Federal official who is independent of the Program, to review the appeal and make a final decision on the matter. Status as a certified-eligible survivor is predicated on certification of a WTC-related health condition; appeal of a WTC Program Administrator denial of status as a certified-eligible survivor will be available only through the appeal process outlined in § 88.15.

Section 88.12 Physician's Determination of WTC-Related Health Conditions

This section establishes the basis for a determination that an enrolled WTC responder or survivor has a health condition that can be certified and covered by the WTC Health Program. Paragraph (a) requires that a WTC Health Program physician promptly send his or her diagnosis to the WTC Program Administrator. The physician's diagnosis must include information establishing that the September 11, 2001, terrorist attacks were substantially likely to be a significant factor in aggravating, contributing to or causing the condition being claimed for

certification. Paragraph (b) establishes that the physician must provide documentation that a health condition medically associated with a WTC-related health condition is determined to be a result of treatment or progression of a previously-certified WTC-related health condition.

Section 88.13 WTC Program Administrator's Certification of Health Conditions

This section establishes that the WTC Program Administrator will promptly assess the diagnosis submitted by the physician pursuant to § 88.12. If the WTC Program Administrator determines that a diagnosed condition is a WTC-related health condition (paragraph (a)) or a health condition medically associated with a WTC-related health condition (paragraph (b)), the condition will be certified as eligible for coverage under the WTC Health Program. If the WTC Program Administrator determines that the condition is neither a WTC-related health condition nor a health condition medically associated with a WTC-related health condition, the applicant will be notified in writing. The WTC responder or the screening-eligible or certified-eligible survivor may appeal the decision pursuant to the process in § 88.15. Paragraph (c) establishes that prior authorization for treatment must be received from the WTC Program Administrator while certification of a WTC-related health condition or a health condition medically associated with a WTC-related health condition is pending, unless treatment is necessary for a medical emergency. As established by § 88.16(a)(1), the provider will be reimbursed only for treatment of a certified WTC-related health condition or a health condition medically associated with a WTC-related health condition.

Section 88.14 Standard for Determining Medical Necessity

This section establishes the standard for determining whether the treatment for a WTC-related health condition or a health condition medically associated with a WTC-related health condition is medically necessary. Medically necessary treatment is reasonable and appropriate, and is based on scientific evidence, professional standards of care, expert opinion, or other relevant information, and is in accordance with medical treatment protocols developed by the Data Centers and approved by the WTC Program Administrator. Treatment protocols developed using current medical information from previously established guidelines from both national professional standards of care and program-specific expertise will be used until the Data Centers are operational and are able to create a Program-wide, unified operations manual.

Section 88.15 Appeals Regarding Treatment

This section explains that a WTC responder, a screening-eligible survivor denied status as certified-eligible, a certified-eligible survivor, or a designated representative may appeal the WTC Program Administrator's decision not to certify the health condition or not to authorize treatment for a certified WTC-related health condition or health condition medically associated with a WTC-related health condition.

The individual or his or her designated representative may appeal the decision in writing within 60 calendar days of the decision. The appeal must be in writing and describe why the individual believes the WTC Program Administrator's initial determination not to certify the condition or authorize treatment was in error. Pursuant to paragraph (b)(1), the WTC Program Administrator will appoint the NIOSH Associate Director for Science, a Federal official independent of the WTC Health Program, who may convene one or more qualified experts to review the WTC Program Administrator's initial determination. The expert(s) will conduct a review of the documentation available at the time of the initial determination and submit the findings to the Federal official. The Federal official will review the expert findings and make a final determination which will not be further considered upon request of the WTC responder, screening-eligible or certified-eligible survivor, or designated representative.

Section 88.16 Reimbursement for Medically Necessary Treatment, Outpatient Prescription Pharmaceuticals, Monitoring, Initial Health Evaluations, and Travel Expenses

This section establishes that the Clinical Center of Excellence or member of the nationwide provider network will be reimbursed by the WTC Health Program for the cost of medical treatment and outpatient prescription pharmaceuticals, and that a WTC responder or certified-eligible survivor may be reimbursed for certain transportation expenses. Under section 3331 of the PHS Act, subject to certain limitations pertinent only to workers' compensation programs and other plans under which New York City is obligated to pay, the WTC Program Administrator may reduce or recoup payment for treatment of a WTC-related health condition if it is determined that the individual's condition is work related, and the individual is covered by a workers' compensation or similar work-related injury or illness plan. For an individual who has a WTC-related health condition that is not work-related and who has coverage under a public or private health insurance plan, the WTC Program Administrator may also take this insurance coverage into account in determining payment for treatment under Title XXXIII of the PHS Act.

Paragraph (a)(1) establishes that payment for medical treatment will be based on the rates set by the Office of Workers' Compensation Programs to administer the Federal Employees Compensation Act (FECA, 5 U.S.C. 8101 *et seq.*, 20 CFR Part 20).[2] Services or treatment not covered by the FECA rate structure will be reimbursed pursuant to the applicable Medicare fee for service rate, as determined appropriate by the WTC Program Administrator. Paragraph (a)(2) states that the cost of medically necessary outpatient prescription pharmaceuticals will be reimbursed according to rates established by contract between the WTC Health Program and one or more pharmaceutical providers through a competitive bidding process. Paragraph (b)(1) establishes that costs associated with monitoring and initial health evaluations will be reimbursed according to rates established by FECA. Paragraphs (c)(1) and (2) state that the WTC Program Administrator will review all claims for reimbursement and that reimbursement will be denied if the treatment is not medically necessary. Finally, paragraph (d) establishes that the WTC Program Administrator may provide reimbursement for necessary and reasonable transportation and other expenses that are related to securing medically necessary treatment through the nationwide provider network, involving travel of more than 250 miles. The WTC Health Program will administer this provision consistently with the procedures of the Office of Workers' Compensation Programs of the Department of Labor, as specified in the statute.

[2] U.S. Department of Labor, Office of Workers' Compensation Programs Medical Fee Schedule, *http://www.dol.gov/owcp/regs/feeschedule/fee.htm.* Accessed June 3, 2011.

V. Regulatory Assessment Requirements

A. Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This rulemaking has been determined to be an ''economically significant'' regulatory action within the meaning of E.O. 12866. Providing medical monitoring and treatment through the WTC Health Program administered pursuant to this regulatory action will have an annual effect on the economy of $100 million or more.

Federal Cost Estimates

Based on the factors and assumptions set forth below, HHS estimates the aggregate cost of medical monitoring and treatment to be provided and administrative expenses of this regulatory action, which partially implements Title XXXIII, in millions of dollars as presented in Table 1, below. The table represents estimates, and is subject to change based on actual expenditures and future data analyses. These costs represent high and low estimates; actual costs and future estimates may be significantly below or above the estimated ranges.

TABLE 1—HEALTHCARE AND ADMINISTRATIVE COSTS OF THE WTC HEALTH PROGRAM

[$ millions; undiscounted]

	FY 2011 (fourth quarter only)	FY 2012	FY 2013	FY 2014	FY 2015
Administrative Costs:					
Low Estimate	$1.8	$15	$15	$15	$15
High Estimate	1.8	22.5	22.2	22.2	22.2
Medical Monitoring and Treatment Costs:					
Low Estimate	33.7	91.8	91.8	91.8	91.8
High Estimate	45.1	107.1	114.3	121.6	128.8
Total Costs:					
Low Estimate	35.5	106.8	106.8	106.8	106.8
High Estimate	46.9	129.6	136.5	143.8	151.0

HHS's estimate of the costs of medical monitoring and treatment to be provided pursuant to the PHS Act and of the administrative costs of providing this monitoring and treatment is based on data from the WTC programs in operation to date. The current NIOSH WTC Medical Monitoring and Treatment Program and Environmental Health Center Program, referred to below as ''current NIOSH WTC programs,'' have operated over the past 10 years. As a result, the current NIOSH WTC programs now approximate the starting point of the scope of the WTC Health Program's activities to be established by the PHS Act and implemented by this rule. The data from operational experience to date is the basis by which HHS has estimated costs for administrative activities, medical monitoring and treatment, and estimated related rates of enrollment and certification (respectively) of additional responders and survivors not currently participating in the current NIOSH WTC programs. Since the current NIOSH WTC grants are set to expire in FY 2011, the analyses of WTC Health Program costs (and health benefits) that follow use a low estimate reflecting actual costs associated with maintaining the existing program plus additional administrative activities, and a higher level that assumes a significant increase in enrollment and increase in both administrative costs and other health care costs.

The WTC Health Program expects to enroll the approximately 58,000 New York City responders and survivors who are enrolled in the current NIOSH WTC programs on July 1, 2011. In the high estimates, HHS assumes that up to 1,064 new responders and survivors in the final quarter of FY 2011 will be enrolled, resulting in a total of up to 59,064 enrollees in the WTC Health Program for FY 2011. Over the first full year (FY 2012) of the WTC Health Program within the high estimate, HHS expects up to 4,255 new enrollees associated with the New York City terrorist attack, (3,018 responders and 1,237 survivors). The upper bound of this estimated range is based on the highest annual rates of enrollment over the past three years for responders and survivors, respectively. The lower bound assumes no new enrollment as the majority of responders affected by the WTC attacks have insurance and may not want to change healthcare providers. The actual enrollment is likely to fall within these bounds but is highly uncertain. HHS has not estimated enrollment for the Pentagon or Shanksville, PA populations as this is outside the scope of the rulemaking.

- Administrative Costs

HHS estimates administrative costs ranging between $15,000,000 and $22,500,000 annually (higher start-up costs are projected for 2012), covering program management, enrollment of responders and survivors, certification of WTC-related health conditions in enrolled responders and certified eligible survivors, authorization of medical care, payment services, administration of appeals processes, education and outreach, and administration of the advisory and steering committee specified in the PHS Act. The range of the costs estimated reflects uncertainty associated with levels of activity for enrollment, appeals, the establishment and maintenance of new quality management and administrative data systems, and competitively established costs for contractual administrative services.

- Costs of Medical Monitoring and Treatment

Initial health evaluations are estimated to cost between $0 and $59,000 in the final quarter of FY 2011 and between $0 and $2,360,000 over the first full year (FY 2012) of the WTC Health Program, depending on the levels of actual enrollment and average

costs per patient. It is unclear how many new people may enroll in the new program within the first quarter. The high range of costs per patient are projected to be between $517 and $555 per individual, based on the average costs for patients having received these evaluations through the current NIOSH WTC programs and accounting for uncertainty in medical care inflation (3.4 percent in 2010) and the range of uncertainty in clinical infrastructure costs (discussed below).

Annual medical monitoring for responders and survivors is estimated to cost between $8,380,000 and $8,990,000 in the final quarter of FY 2011 for 10,875 responders and survivors and between $33,54,000 and $36,630,000 in FY 2012, the first full year of the WTC Health Program for between 43,500 and 44,298 responders and survivors and to increase with enrollment. This is based on an average cost of between $771 and $827 per patient for a medical monitoring exam. The range of average per patient costs is based on the average costs for patients having received a medical monitoring exam through the current NIOSH WTC programs and accounting for uncertainty in medical care inflation (3.4 percent in 2010) and the range of uncertainty in clinical infrastructure costs (discussed below). Based on participation in the current program, these projections assume 75 percent of responders and survivors will obtain annual monitoring examinations. These examinations are provided in the years following the initial health evaluation, which is why there is a 1-year lag with respect to program enrollment numbers in the number of patients projected to receive these exams each fiscal year.

Medical treatment is estimated to cost between $14,550,000 and $15,890,000 in the final quarter of FY 2011 for between 4,205 and 4,282 responders and survivors and between $58,210,000 and $68,130,000 in the first full year (FY 2012) of the WTC Health Program for between 16,820 and 18,363 responders and survivors and to increase with enrollment. This estimate is based on an average cost in the current NIOSH WTC programs for these services of between $3,461 and $3,710 per patient under treatment and an estimated 29 percent of enrolled participants in current NIOSH WTC programs receiving treatment annually. However, there are current grantees that provide treatment services per patient significantly below this average cost. The range of average per patient costs is based on the average costs for patients having received treatment through the current NIOSH WTC programs and accounting for uncertainty in medical care inflation (3.4 percent in 2010) and the range of uncertainty in clinical infrastructure costs (discussed below).

The initial health evaluation, medical monitoring and treatment cost estimates include infrastructure costs for the Clinical Centers of Excellence, which will provide the medical services. The infrastructure costs are those that the Clinical Centers would need to operate the WTC Health Program that are not covered by FECA, such as the costs for retention of participants, case management, medical review and appeals, benefits counseling, quality management, data transfer, interpreter services, and the development of treatment protocols. Beginning in FY 2012, HHS projects annual infrastructure costs ranging from $15,400,000 to $28,220,000, depending on competitively established contractual costs for operating clinical centers of excellence to carry out the functions described above. These infrastructure costs will be obligated through contracts with the Clinical Centers annually. These costs are included within the initial health evaluation, medical monitoring, and treatment cost estimates but are shown as a non-additive total in Table 2 for the fiscal years 2012–2015, without adjustment for inflation.

TABLE 2—SUMMARY OF MEDICAL MONITORING AND TREATMENT AND CLINICAL CENTERS OF EXCELLENCE INFRASTRUCTURE COST CALCULATIONS

[In $ millions]

	FY 2011 (4th qtr)	FY 2012	FY 2013	FY 2014	FY 2015
Total Number of WTC Health Program Enrollees (Low & High Estimates)	58,000	58,000	58,000	58,000	58,000
	59,064	63,319	67,574	71,829	76,084
Initial Health Evaluation					
New Enrollees	0	0	0	0	0
	1,064	4,255	4,255	4,255	4,255
Total Undiscounted Cost of Initial Health Evaluation:					
Low Estimate = $517 per person	$0.00	$0.00	$0.00	$0.00	$0.00
High Estimate = $555 per person	$0.59	$2.36	$2.36	$2.36	$2.36
Annual Medical Monitoring					
75% of All Enrollees, (1-year lag)	10,875	43,500	43,500	43,500	43,500
	10,875	44,298	47,489	50,681	53,872
Total Undiscounted Cost of Medical Monitoring:					
Low Estimate = $771 per person	$8.38	$33.54	$33.54	$33.54	$33.54
High Estimate = $827 per person	$8.99	$36.63	$39.27	$41.91	$44.55
Medical Treatment					
29% of All Enrollees	4,205	16,820	16,820	16,820	16,820
	4,282	18,363	19,596	20,830	22,064
Total Undiscounted Cost of Medical Treatment:					
Low Estimate = $3,461 per person	$14.55	$58.21	$58.21	$58.21	$58.21
High Estimate = $3,710 per person	$15.89	$68.13	$72.70	$77.28	$81.86

TABLE 2—SUMMARY OF MEDICAL MONITORING AND TREATMENT AND CLINICAL CENTERS OF EXCELLENCE INFRASTRUCTURE COST CALCULATIONS—Continued

[In $ millions]

	FY 2011 (4th qtr)	FY 2012	FY 2013	FY 2014	FY 2015
Medical Treatment Total					
Low Estimate	$33.73	$91.75	$91.75	$91.75	$91.75
High Estimate	$45.14	$107.12	$114.33	$121.55	$128.77
Clinical Centers Fixed Infrastructure Costs (non-add)					
Low Estimate	$10.80 (obligated) .. + $3.60 (non-add) ..	$15.40	$15.40	$15.40	$15.40
High Estimate	$19.67 (obligated) .. + $6.56 (non-add) ..	$28.22	$28.22	$28.22	$28.22

• Congressional Budget Office Estimates Comparison

HHS has compared the cost estimates it has derived above, based on the actual expenditures of the current NIOSH WTC programs, with estimates prepared by the Congressional Budget Office (CBO) during the legislative process that led to the enactment of Title XXXIII of the PHS Act (Congressional Budget Office, June 25, 2010). CBO used different methods and assumptions to produce its estimates. The purpose of the comparison was to consider further the baselines, assumptions and results of the HHS cost estimates. Excluding costs under Title XXXIII extraneous to this rulemaking, the CBO estimates for the first 5 years are somewhat higher than those of HHS for each full year, but well within a factor of two.

Although many of the details of CBO's methodology are not presented in its report, it appears to HHS that this difference is likely to be driven by the difference in the estimation of the prevalence of WTC-related health conditions among responders and survivors and medical costs for their treatment. CBO based its health care cost estimates on national data summarizing medical expenditures for the health conditions covered by the WTC Health Program, whereas these estimates by HHS are based on actual expenditures in the current NIOSH WTC programs for these conditions. While it is unclear what prevalence of each individual health condition CBO applied to calculate its health care costs, the current actual prevalence of these conditions, to the extent they are receiving monitoring and treatment, is integrated in the HHS estimate.

Enrollment estimates projected by CBO fall within the range of estimates provided in the RIA for this interim final rule. CBO estimated a WTC Health Program enrollment of New York City responders and survivors of 3,750 annually. HHS estimated enrollment of up to 4,255 New York City responders and survivors in FY 2012 as the high range, the first full year, and each year following.

CBO estimated a higher overall prevalence of WTC conditions among responders and survivors than HHS. CBO projected 40 percent of enrollees in the WTC Health Program would develop a WTC-related health condition; HHS cost estimates are based on 29 percent of enrollees in current NIOSH WTC programs currently receiving treatment for one or more WTC-related health conditions in the last 12 months.

Examination of Benefits (Potential Health Impacts)

The purpose of this examination is to describe generally with illustrative detail the benefits that may be expected to result from this rule in terms of improved health of patients treated through the WTC Health Program.

An assessment of the health benefits for patients treated through the WTC Health Program begins with identifying and estimating the prevalence of health conditions for which participants would be treated under this rule and the numbers of participants to be treated for these health conditions. NIOSH has information on the numbers and proportion of responders and survivors receiving medical treatment in the current NIOSH WTC programs and has projected enrollment rates in the WTC Health Program, as specified in the cost discussion above. This information, and projections of increase associated with new enrollments of responders and survivors in the WTC Health Program, is summarized in Table 3, below, which presents the upper bound annual projections of the total expected population of patients who will be treated under the WTC Health Program. These figures assume that the prevalence of each health condition will be and remain the same across all subgroups among responders and survivors in the WTC Health Program as exists presently for the participants in current NIOSH WTC programs. If Table 3 were also to present the lower bound projections of the expected population of patients who will be treated under the program, assuming there would be no increase in the enrolled population from 2010, the figures for FY 2012–2015 would be approximately seven percent lower than the figures presented for FY 2012.

TABLE 3—ESTIMATED PREVALENCE OF WTC-RELATED HEALTH CONDITIONS AMONG ENROLLED/CERTIFIED WTC HEALTH PROGRAM RESPONDERS AND SURVIVORS

[High range only]

	2011	2012	2013	2014	2015
Total Patients	4,282	18,363	19,596	20,830	22,064
Patients with any Physical Health Condition	3,775	16,190	17,277	18,365	19,453
Upper Airway	3,175	13,616	14,530	15,445	16,360
Chronic rhinosinusitis	2,858	12,254	13,077	13,900	14,724
Chronic nasopharyngitis	64	272	291	309	327
Chronic laryngitis	222	953	1,017	1,081	1,145

TABLE 3—ESTIMATED PREVALENCE OF WTC-RELATED HEALTH CONDITIONS AMONG ENROLLED/CERTIFIED WTC HEALTH PROGRAM RESPONDERS AND SURVIVORS—Continued

[High range only]

	2011	2012	2013	2014	2015
Upper airway hyperreactivity	0	0	0	0	0
Cough	413	1,770	1,889	2,008	2,127
Sleep apnea	953	4,085	4,359	4,633	4,908
Lower Airway	1,952	8,372	8,934	9,496	10,059
Asthma	1,113	4,772	5,092	5,413	5,734
Reactive airway dysfunction syndrome	683	2,930	3,127	3,324	3,521
Chronic obstructive pulmonary disease (COPD)	390	1,674	1,787	1,899	2,012
Other chronic respiratory disorder due to fumes and vapors	78	335	357	380	402
Interstitial lung diseases	98	419	447	475	503
Gastrointestinal	2,316	9,931	10,597	11,265	11,932
Gastroesphageal reflux	2,304	9,881	10,545	11,209	11,873
Musculoskeletal	505	2,166	2,312	2,457	2,603
Low back pain	197	845	902	958	1,015
Carpal tunnel syndrome	30	130	139	147	156
Other musculoskeletal conditions	424	1,820	1,942	2,064	2,186
Patients with any Mental Health Condition	1,416	6,072	6,479	6,887	7,296
Post traumatic stress disorder (PTSD)	750	3,218	3,434	3,650	3,867
Depression	878	3,764	4,017	4,270	4,523
Panic disorder with agoraphobia	85	364	389	413	438
Generalized anxiety disorder	184	789	842	895	948
Anxiety disorder NOS	524	2,247	2,397	2,548	2,699
Acute stress disorder	42	182	194	207	219
Dysthymic disorder	99	425	454	482	511
Adjustment disorder	71	304	324	344	365
Substance abuse	*nda	nda	nda	nda	nda
All Patients with both Physical and Mental Conditions	1,170	5,017	5,354	5,691	6,028

*No data available.

Based on this prevalence information, HHS has examined the health and quality of life improvements associated with medical treatment of several of the most common conditions in the covered population. The expected health benefits of the WTC Health Program are compared with those expected if there was no program after June 30, 2011. Where HHS has estimated such improvements quantitatively, it has assumed that the condition would continue to be represented among new participants in the WTC Health Program with the same prevalence with which it is occurring in current NIOSH WTC programs, as noted above. Notwithstanding these and other uncertainties discussed in more detail in the limitations section below, HHS finds the following information indicative of the nature and scope of health benefits expected to result from implementation of this rule.

Using the expected number of patients for FY 2011–2015 from Table 3, above, and published information on treatment effectiveness, when possible, a rough estimate of patient increased quality of life attributable to the WTC Health Program is presented for several WTC-related health conditions. HHS used quality of life as a common metric of expected treatment effectiveness for all the conditions assessed. The assessment is based on a series of assumptions and relies on very limited information. As a starting point, HHS assumed that participants in the WTC Health Program will receive medical treatment that follows the New York City Department of Health and Mental Hygiene's ''Clinical Guidelines for Adults Exposed to the World Trade Center Disaster'' (Guidelines) when possible, along with published information about the effectiveness of specific medical treatment. The Guidelines recommend a coordinated approach to assessing and treating mental and physical health conditions but, as noted above, HHS lacks information identifying the occurrence of specific single or multiple health conditions among the patients of current NIOSH WTC programs. Therefore, HHS assessed the medical treatment of each condition expected to be prevalent in WTC Health Program participants individually. HHS also assumes that patients treated through the WTC Health Program will receive the best care available, based on the assumption that WTC Health Program healthcare providers would be experts in treating WTC-related health conditions, both individually and as syndromes. Given the many unaddressed uncertainties of this assessment, HHS deliberately used methods that would underestimate potential benefits. One general method used for all the health conditions addressed was to assume that all responders and survivors will receive some but not optimal treatment for their conditions in the absence of the WTC Health Program. So the benefits estimated represent the incremental improvement in health patients in the WTC Health Program can expect from receiving the optimal treatment provided by the WTC Centers of Clinical Excellence versus standard treatments that are commonly received outside of this program.

Limitations in deriving health benefits estimates include the following. There is considerable uncertainty involved in the findings described below due to the lack of specificity of the condition information (NIOSH does not have access to condition information in current NIOSH WTC programs by specific International Classification of Diseases codes), the availability of multiple medical treatments for each condition, and limitations of published studies on the effectiveness of the medical treatments available. There are other sources of uncertainty as well. For example, some new participants in the WTC Health Program, if they have not obtained treatment previously, may present in worse health and may benefit less from medical treatment than

participants who received timely treatment through current NIOSH WTC programs. Also, HHS has not given consideration in these analyses to the fact that some WTC Health Program participants have or will have multiple illnesses concurrently, which can impact the effectiveness of medical treatment for any given condition. HHS has also not estimated what the likely impact of expanded coverage and more affordable health care would be through health reform.

• Asthma

The recommended treatment for asthma in the Guidelines is a combination of a daily inhaled corticosteroid (ICS) and a short-acting inhaled bronchodilator. HHS assumes that all patients in the WTC Health Program would be treated accordingly, compared to a hypothetical scenario according to which patients would be treated with a bronchodilator only, and compared the quality of life of these two groups. An alternative would have been to compare the presumed quality of life of WTC Health Program patients to that of untreated patients suffering from asthma. HHS chose the former approach because HHS lacks good quality empirical evidence of the effectiveness of treatment inside or outside WTC Health Program, and because this approach likely results in an underestimate of the true health benefits for these patients. Paltiel *et al.* studied adult asthma patients and projected their health-related quality of life outcomes for 10 years into the future, with and without ICS treatment.[3] Without ICS, the quality-adjusted life years (QALYs) of each such patient for a 10-year-long period were estimated to be 8.65, while with ICS they were estimated to be 8.94 QALYs (without discounting). The difference in QALYs between treatment outcomes for the period was 0.29 QALYs for each patient, which divided by 10 years results in 0.029 QALYs annually. Multiplying the WTC Health Program's asthma patient population for each year during FY 2011–2015 by 0.029 results in 642 total or 151 annualized undiscounted QALYs gained from treating asthma patients in the Program with ICS versus no ICS (without adjusting for deaths based on life expectancy tables, which would mostly be attributed to non-asthma related causes). As discussed above, this estimate has a high degree of uncertainty. To illustrate this uncertainty, HHS assumes a lower or higher degree of treatment effectiveness by halving or doubling the estimated improvement in quality of life, which results in a low estimate of 321 total or 76 annualized undiscounted QALYs to a high estimate of 1,284 total or 302 annualized undiscounted QALYs. HHS also applies a standard low and high discount rate of 3 percent and 7 percent, respectively, to estimate the present value of health benefits occurring in the future. Under the assumption of 0.029 QALYs gained per year per patient under treatment, this results in 581 total or 150 annualized QALYs when discounting future health benefits at 3 percent and 510 total or 146 annualized QALYs when discounting at 7 percent, respectively.

• Reactive Airways Dysfunction Syndrome (RADS)

According to the Guidelines, medical treatment similar to that for asthma can be provided for patients suffering from RADS. Using the assumptions described above, HHS estimates this would result in 394 total or 93 annualized undiscounted QALYs gained from treatment of RADS. HHS estimates of positive health impact range from a low of 197 total or 47 annualized undiscounted QALYs to a high of 788 total or 186 annualized undiscounted QALYs, when assuming that half or double the effectiveness of treatment in improving quality of life. Assuming that treating one patient results in 0.029 QALYs gained and discounting future health benefits at 3 and 7 percent, results in 67 total or 92 annualized QALYs and 313 total or 90 annualized QALYs, respectively.

• Chronic Obstructive Pulmonary Disease (COPD)

The Guidelines do not address COPD treatment in detail. HHS used information from Briggs *et al.,* who compared treatments of adult COPD patients in several countries, including the United States.[4] Comparison treatments included placebo, salmeterol only, fluticasone propionate only, and a combination salmeterol/fluticasone propionate. The authors found the combination treatment was the most effective. HHS used the difference in QALYs between the combination treatment and salmeterol (0.067), which yields less health improvement than the combination compared to a placebo (0.077). Multiplying the WTC Health Program's COPD population for each year during FY 2011–2015 by 0.077 results in 598 total or 141 annualized undiscounted QALYs gained. Assuming half and double the improvement in quality of life results in 299 total or 71 annualized undiscounted QALYs gained and 1,196 total or 282 annualized undiscounted QALYs gained, respectively. Assuming that treatment of one patient results in 0.077 QALYs gained and discounting future health benefits at 3 and 7 percent results in 541 total or 140 annualized QALYs gained and 475 total or 137 annualized QALYs gained, respectively.

• Chronic Rhinosinusitis (CRS)

The literature provides some evidence that medical treatment of CRS, similar to what is recommended in the Guidelines, would be as effective as surgery for many levels of severity of CRS.[5] HHS did not find any published studies on CRS that included health-related quality of life related information. Ko and Coons report on mean quality of life for several chronic conditions in U.S. adults, that include asthma (0.924) and sinusitis (0.933).[6] However, in general CRS is probably associated with a lower quality of life than sinusitis. Assuming that the improvement in CRS-related quality of life with effective treatment is only half that of asthma (*i.e.,* 0.0145, see above), treating CRS patients through the WTC Health Program would result in 824 total or 194 annualized undiscounted QALYs gained. Assuming half and double the improvement in quality of life results in 52 total or 97 annualized undiscounted QALYs gained and 1,648 total or 388 annualized undiscounted QALYs gained, respectively. Assuming that annual treatment of one patient results in 0.0145 QALYs gained and discounting future health benefits at 3 and 7 percent results in 746 total or 192 annualized QALYs gained and 655 total or 188 annualized QALYs gained, respectively.

• Gastroesophageal Reflux (GERD)

The Guidelines recommend the use of proton pump inhibitors (PPIs) for 4–8 weeks, followed by maintenance PPI (PPI on demand) to treat GERD. Gerson

[3] Paltiel AD, Fuhlbrigge AL, Kitch BT, Lijas B, Weiss ST, Neumann PJ, Kuntz KM. 2001. Cost effectiveness of inhaled corticosteroids in adults with mild to moderate asthma: results from the Asthma Policy Model. J Allergy Clin Immunol 108(1):39–46.

[4] Briggs AH, Glick HA, Lozano-Ortega G, Spencer M, Caverley PMA, Jones PW, Vestbo J on behalf of the Towards a Revolution in COPD Health (TORCH) investigators. 2010. Is treatment with ICS and LABA cost-effective for COPD? Multinational economic analysis of the TORCH study. European Respiratory Journal 35(3):532–539.

[5] Ragab SM, Lund VJ, Scadding G. 2004. Evaluation of the medical and surgical treatment of chronic rhinosinusitis: a prospective, randomized, controlled trial. Laryngoscope 11:923–930.

[6] Ko Y, Coons SJ. Self-reported chronic conditions and EQ–5D index scores in the US adult population. 2006. Current Medical Research and Opinions 22(10):2065–2071.

et al. compared PPI on demand to several other treatments.[7] The authors report 0.012 QALYs gained when comparing PPI on demand to the next most effective treatment they examined (continuous PPI). Multiplying the WTC Health Program's GERD population for each year during FY 2011–2015 by 0.012 results in 550 total or 129 annualized undiscounted QALYs gained. Assuming half and double the improvement in quality of life results in 275 total or 65 annualized undiscounted QALYs gained and 1,100 total or 258 annualized undiscounted QALYs gained, respectively. Assuming that annual treatment of one patient results in 0.012 QALYs gained and discounting future health benefits at 3 and 7 percent results in 498 total or 128 annualized QALYs gained and 437 total or 125 annualized QALYs gained, respectively.

- PTSD and Depression

One of the treatments for PTSD addressed in the Guidelines is exposure therapy (in combination with medication or other treatment as needed). Nacash *et al.* found a significant reduction of over 50 percent of PTSD and depression symptoms measured by the PSS–I (PTSD Symptom Scale-Interview Version) between ''treatment as usual'' and prolonged exposure therapy.[8] PSS–I is roughly equivalent to CAPS, another longer diagnostic tool for PTSD, according to Foa and Tolin; [9] CAPS has been studied in relation to quality of life by Mancino *et al.*[10] HHS assumed that the exposure therapy treatment would result in an increase in quality of life that is approximately half that reported by Mancino as the difference between moderately severe and moderate PTSD, or 0.013 QALYs. This result means that WTC Health Program patients suffering from PTSD and depression would gain 421 total or 99 annualized undiscounted QALYs. Assuming half and double the improvement in quality of life results in 211 total or 47 annualized undiscounted QALYs gained and 842 total or 198 annualized undiscounted QALYs gained, respectively. Assuming that annual treatment of one patient results in 0.013 QALYs gained and discounting future health benefits at 3 and 7 percent results in 381 total or 98 annualized QALYs gained and 334 total or 96 annualized QALYs gained, respectively.

In summary, available information indicates the WTC Health Program is likely to provide substantial improvements in health to responders and survivors. The discounted QALY estimates discussed above and summarized in Table 4 below are illustrative of these benefits. Annualized mid-range estimates for these six health conditions, as well as annualized cost estimates, are provided in Table 5 concluding these analyses of costs and benefits. Table 5 presents the benefits in terms of a range from no effect or benefit to the midrange estimated values of benefit to account for uncertainty regarding the number of WTC health program responders and survivors who might receive the same medical treatments for these conditions using other sources of health insurance coverage.

TABLE 4—POTENTIAL QALYS GAINED FROM THE WTC HEALTH PROGRAM TREATMENT OF SELECT WTC-RELATED HEALTH CONDITIONS: FY 2011–2015 SUMMARY

Health condition	Total undiscounted QALYs gained by treatment (mid-range estimates)	Present value of QALYs gained by treatment discounted at 3%	Present Value of QALYs gained by treatment discounted at 7%
Asthma	642	581	510
RADS	394	357	313
COPD	598	541	475
CRS	824	746	655
GERD	550	498	437
PTSD & Depression	421	381	335

TABLE 5—ACCOUNTING STATEMENT: ANNUALIZED COSTS AND SELECT HEALTH BENEFITS OF THE WTC HEALTH PROGRAM

	Estimate range (low/high)	Year dollar	Discount rate (%)	Period covered
Benefits (Quantified, unmonetized)				
Annualized (QALYs gained/year)				
Asthma	0–146		7	5
	0–150		3	5
RADS	0–90		7	5
	0–92		3	5
COPD	0–137		7	5
	140		3	5
CRS	0–88		7	5
	92		3	5
GERD	0–125		7	5

[7] Gerson LB, Robbins AS, Garber A, Hornberger J, Triadafilopoulos G. 2000 A cost-effectiveness analysis of prescribing strategies in the management of gastroesophageal reflux disease. The American Journal of Gastroenterology 95(2): 395–407.

[8] Nacasch N, Foa EB, Huppert JD, Tzur D, Fostick L, Dinstein Y, Polliack M, Zohar J. 2010. Prolonged exposure therapy for combat- and terror-related posttraumatic stress disorder: a randomized control comparison with treatment as usual. J Clin Psychiatry (published online ahead of print): doi:10.4088/JCP.09m05682blu.

[9] Foa EB, Tolin DF. 2000. Comparison of the PTSD Symptom Scale-Interview Version and the Clinician-Administered PTSD Scale. Journal of Traumatic Stress 13(2):181–191.

[10] Mancino MJ, Pyne JM, Tripathi S, Constans J, Roca V, Freeman T. 2006. Quality-adjusted health status in veterans with posttraumatic stress disorder. J Nerv Ment Dis 194:877–879.

TABLE 5—ACCOUNTING STATEMENT: ANNUALIZED COSTS AND SELECT HEALTH BENEFITS OF THE WTC HEALTH PROGRAM—Continued

	Estimate range (low/high)	Year dollar	Discount rate (%)	Period covered
	0–128	.....	3	5
PTSD & Depression	0–96	.....	7	5
	0–98	.....	3	5
Transfers (Federal Government to centers under contract with the WTC Health Program)				
Annualized monetized ($ million/year)	$104–$136.08	2011	7	5
	$106.70–$139.93	.....	3	5

Regulatory Options

Under E.O. 13563, HHS is required to ''identify and assess available alternatives to direct regulation.'' The provisions of this rule are either specifically mandated by the PHS Act to be established by regulation or they establish substantive rights for members of the public, which are issued through notice and comment rulemaking and codified as Federal regulations.

E.O. 13563 also requires HHS to ''tailor its regulations to impose the least burden on society,'' consistent with the regulatory objectives, and to choose among ''alternative regulatory approaches those that maximize net benefits.'' However, the PHS Act provides only minor discretion or no discretion to HHS for the most significant provisions of the rule. Title XXXIII of the PHS Act specifies without ambiguity the following major elements: eligibility criteria for responders and certain survivors of the New York City attacks and procedures for their enrollment or certification; an initial list of WTC-related health conditions that may be covered by the Program and criteria and certain procedures for determining whether one or more of these conditions shall be covered for a given responder or survivor; criteria and procedures for determining whether a condition medically associated with a WTC-related health condition shall also be covered for a given responder or survivor; procedures for determining the medical necessity and hence the coverage of specific treatments for covered conditions; the opportunity for responders and survivors to appeal adverse decisions determined by the program regarding their enrollment, coverage for specific health conditions, or coverage of specific medical treatments; and the use of Federal Employee Compensation Act (FECA) reimbursement rates for treatments provided, when applicable. As a result, the very limited discretion granted to HHS by the PHS Act does not provide substantial opportunities for policy choices that would have any significant impact on burdens on society. Similarly, the options for alternative regulatory approaches are minor and can have little or no bearing on maximizing net benefits. However, in accordance with this latter requirement, HHS examined several alternative approaches to specific provisions in this rule for which the PHS Act provides discretion in determining the policy to be established. A summary of the three more substantive of these alternatives follows:

Verifying Applicant Qualifications: The PHS Act does not specify the procedure or requirements by which the WTC Program Administrator is to verify the qualifications of a responder applicant in relation to the eligibility criteria specified by the PHS Act. The rule could require written documentation from the applicant's employer or other entity that might verify an individual's presence, residence, or employment, as proof of their eligibility. The rule prioritizes such documentation but requires applicants to attest to their eligibility as an alternative, together with explanation of the lack of documentation and their efforts to obtain such. Attestations made in lieu of documentation would be verified as described below. False attestations would be subject to penalty as noticed and specified on the application forms.

HHS decided not to exclusively rely on documentation because experience in the current NIOSH WTC programs has demonstrated that many responders do not have access to such documentation; this includes many of the unpaid volunteers who were involved in the response effort as well as day laborers and other contingent workers common to the construction industry involved in the site remediation activities. The current NIOSH WTC programs have verified the eligibility of applicants despite this documentary limitation by comparing the specific information provided by an applicant during the application process with the applicant's exposure history obtained during the initial health evaluation. The WTC Health Program will continue to verify the responses provided by individuals on the application form by checking them against the responses given during the exposure assessment. Doing so will allow Program staff to evaluate the veracity of information provided by the individual and thereby assess eligibility. HHS has rejected the specification of a more restrictive documentary requirement for verifying the eligibility of responders, which would exclude responders who meet the statutory criteria for enrollment and is unnecessary for effectively assessing eligibility. HHS invites public comment on the appropriateness of this verification process.

Medical Necessity Standard: The PHS Act authorizes the WTC Program Administrator to establish a medical necessity standard, which governs the approval of specific medical treatments, together with the use of treatment protocols to be approved by the Administrator. Public and private health plans all have such standards, which typically require a determination that procedures are reasonable and appropriate on the basis of professional standards of care and scientific evidence. They vary substantially regarding their level of detail and particular features, such as considerations of cost-effectiveness or exclusions of experimental procedures. HHS could have adopted a medical necessity standard from another public or private health care plan or program. However, HHS did not identify useful distinctions among these standards aside from the salient features of relying on professional standards of care and scientific evidence. HHS does recognize that the very particular exposure history of the population under care would require some latitude for considering expert opinion when the current state of

science or professional standards of care might be deficient.

Accordingly, in the medical necessity standard included in this rule, HHS coupled the two salient features of other standards, relying on professional standards of care and scientific evidence, as well as the option of relying on expert opinion, with the requirement that treatments adhere to treatment protocols approved by the WTC Program Administrator, as specified in Title XXXIII of the PHS Act. HHS believes that this standard will adequately support the WTC Program Administrator to effectively and efficiently manage determinations of medical necessity in this Program and ensure that responders and survivors receive necessary medical treatments. HHS invites public comment on the appropriateness of this standard and whether any additional elements or criteria should be considered.

Treatment Payment Rates: Title XXXIII of the PHS Act requires the WTC Program Administrator to reimburse costs using the FECA payment rate for medically necessary treatment that is covered by the FECA rates. For any treatment that is not covered by FECA rates, the WTC Program Administrator is authorized to establish payment rates, within the limitation that payment rates for such treatment not exceed the rates paid for these products and services by the Department of Labor's Office of Workers' Compensation. HHS is not aware of any treatment to be provided that is not currently covered by FECA rates. However, NIOSH is not fully expert in FECA coding and such a deficiency is possible. To address this need, HHS considered establishing rates uniquely for this program. HHS could have promulgated the basis for rate setting in this rule and then would have published rate schedules periodically to account for the additions of treatments, health care inflation, and local health care market changes. HHS decided against this approach because it would be highly inefficient, as such rate setting is already conducted by the Centers for Medicare & Medicaid Services for the far larger populations of patients served by its programs. Moreover, most, if not all, of the treatments required in this Program are covered by FECA rates, so the extent of the rate-setting that might be needed for this Program would be minor. Finally, although this Program covers a small population, its scope is national, as responders and survivors are covered wherever they might live, and over time one can expect this population to continually disperse for employment, retirement, and other reasons.

Accordingly, HHS has decided it would adopt Medicare payment rates, which are updated periodically and cover all U.S. localities nationally. HHS believes this is optimal for several reasons: (1) The rates are promulgated on the basis of extensive expert analysis, which ensures competence in the rate setting; (2) the rates are already widely applied in every locality throughout the nation and hence, their application for this relatively minor use is unlikely to significantly impact any health care organization involved in this program; and (3) the rates meet the statutory requirement under the PHS Act of not exceeding rates paid by the Department of Labor's Office of Workers' Compensation Programs. HHS invites public comment on the appropriateness of this approach and whether any additional possibilities should be considered.

C. Paperwork Reduction Act

CDC has determined that this interim final rule contains information collection and record keeping requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3420). A description of these provisions is given below with an estimate of the annual reporting burden. Included in the estimate of the annual reporting burden is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information. In compliance with the requirement of § 3506(c)(2)(A) of the PRA for opportunity for public comment on proposed data collection projects, CDC will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Daniel Holcomb, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents. Written comments should be received within 60 days of this notice.

Proposed Project: World Trade Center Health Program (42 CFR 88) (OMB Control Number 0920–0891, expiration date 12/31/2011)—New—National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

Background and Brief Description: Title XXXIII of the Public Health Service Act as amended establishes the WTC Health Program within HHS. The Program will provide medical monitoring and treatment benefits to responders to the September 11, 2001, terrorist attacks in New York City, at the Pentagon, and at Shanksville, PA, and survivors of the terrorist attacks in New York City. Title XXXIII of the PHS Act requires that various program provisions be established by regulation, and also requires that the Program begin providing benefits on July 1, 2011.

This interim final rule contains the data collection requirements that have been approved by OMB through their emergency clearance process under OMB Control Number 0920–0891, with an expiration date of December 31, 2011. The provisions in the interim final rule that contain data collection requirements are:

Section 88.3 Eligibility—currently identified responders; Section 88.7 Eligibility—currently identified survivors. These sections restate the eligibility criteria, as outlined in Title XXXIII, § 3311 and § 3321 of the PHS Act, for WTC responders and survivors who have received medical monitoring and treatment benefits from the NIOSH WTC program. HHS estimates that approximately .5 percent of currently identified responders and survivors, or 290, will asked to provide the Program with additional information to ensure that the individual meets all eligibility criteria. We expect that responding to this inquiry will take no more than 10 minutes.

Section 88.5 Application process—status as a WTC responder. This section informs applicants who believe they meet the eligibility criteria for a WTC responder how to apply for enrollment in the WTC Health Program, and describes the types of documentation the WTC Program Administrator will accept as proof of eligibility.

Two distinct but equivalent application forms will be available, one appropriate to members of the Fire Department, City of New York (FDNY) (and their eligible family members), and a second appropriate to members of specified law enforcement organizations and certain other rescue, recovery, and cleanup workers.

Section 88.9 Application process—status as a WTC survivor. This section informs applicants who believe they meet the eligibility criteria for a WTC survivor how to apply for screening-eligible status in the WTC Health Program, and describes the types of documentation the WTC Program Administrator will accept as proof of eligibility.

Section 88.11 Appeals regarding eligibility determination—responders and survivors. This section establishes the process for appeals regarding eligibility determinations. The burden table reflects the annualized total burden (14,184/3 = 4,728), broken into the three separate applicant groups (Fire Department of New York responders (189), general responders (2,979), and survivors (1,560)). Of those applications, we expect that 10 percent will fail due to ineligibility. We further assume that 10 percent of those individuals (47 respondents) will appeal the decision.

Section 88.12 Physician's Determination of WTC-Related Health Conditions. This section requires the collection and reporting of information related to the diagnosis of a WTC-related health condition or health condition medically associated with a WTC-related health condition in a WTC responder or certified-eligible survivor.

Data collection activities in § 88.12, ''Physician's Determination of WTC-Related Health Conditions,'' do not fall under the PRA because they are within one of the ten categories of inquiry generally not deemed to constitute information (5 CFR 1320.3(h)(1)–(10)). Medical diagnosis and treatment, which falls under § 88.12 and § 88.14 of this part, includes an initial and follow-up clinical examinations designed to detect health disorders, as well as direct treatment of clinical disorders to improve or prevent progression of the disorders. Results of clinical examinations and treatment will be used in connection with research to understand the disease processes and to develop better prophylactic procedures for healthcare of the served population. Burden associated with epidemiologic and other research regarding certain health conditions related to the September 11, 2001, terrorist attacks is not contemplated as part of this rulemaking.

Data reporting from physicians to the WTC Program Administrator under § 88.12 is subject to the PRA. Physicians will report this data electronically and on paper. HHS expects that 2,300 program physicians will spend approximately 30 minutes extracting the required elements from the patient records and transmitting them to NIOSH, and that approximately 32,361 diagnoses, or 14 per provider, will be reported to the WTC Health Program each year.

Section 88.15 Appeals regarding treatment. This section establishes the timeline and process to appeal decisions regarding treatment decisions. HHS estimates that program participants will request certification for 32,361 health conditions each year. Of those 32,361, we expect that .001 percent (32) will be denied certification by the WTC Program Administrator. We further expect that such a denial will be appealed 95 percent of the time. Of the projected 19,596 enrollees who will receive medical care, it is estimated that 3 percent (588) will appeal decisions of unnecessary treatment. We estimate that the appeals letter will take no more than 30 minutes.

Section 88.16 Reimbursement for medically necessary treatment, outpatient prescription pharmaceuticals, monitoring, initial health evaluations, and travel expenses. This section establishes the process by which a Clinical Center of Excellence or member of the nationwide provider network will be reimbursed by the WTC Health Program for the cost of medical treatment and outpatient prescription pharmaceuticals, and a WTC responder or certified-eligible survivor may be reimbursed for certain transportation expenses.

Standard U.S. Treasury form SF 3881 (OMB No. 1510–0056) will be used to gather necessary information from Program healthcare providers so that they can be reimbursed directly from the Treasury Department. HHS expects that approximately 200 providers and provider groups will submit SF 3881, which is estimated to take 15 minutes to complete. Providers will submit only one SF 3881.

Pharmacies will electronically transmit reimbursement claims to the WTC Health Program. HHS estimates that 150 pharmacies will submit reimbursement claims for 39,192 prescriptions per year, or 261 per pharmacy; we estimate that each submission will take 1 minute.

WTC responders or certified eligible survivors who travel more than 250 miles to a nationwide network provider for medically necessary treatment may be provided necessary and reasonable transportation and other expenses. These individuals may submit a travel refund request form, which should take respondents 10 minutes. HHS expects no more than 10 claims per year.

The reporting and record keeping requirements contained in these regulations are used by NIOSH to carry out its responsibilities related to the implementation of the WTC Health Program as required by law. The burdens imposed have been reduced to the absolute minimum considered necessary to permit NIOSH to carry out the purpose of the legislation, *i.e.,* to implement the WTC Health Program. This emergency data collection is warranted because it is essential that individuals who wish to be enrolled, apply to the WTC Health Program, appeal a determination made by the WTC Program Administrator, or submit a claim for reimbursement have the opportunity to do so as soon as the Program begins.

This new information collection request is for 19,111 burden hours.

Section	Title	Number of respondents	Responses per respondent	Average burden per response	Total burden (in hours)
88.3	Eligibility—currently identified responders;	290	1	10/60	48
88.7	Eligibility—currently identified survivors.				
88.5	Application process—status as a WTC responder (FDNY)	189	1	30/60	95
88.5	Application process—status as a WTC responder (general)	2,979	1	30/60	1,490
88.9	Application process—status as a WTC survivor	1,560	1	15/60	390
88.11	Appeals regarding eligibility determinations—responders and survivors.	47	1	30/60	24
88.12	Physician's determination of health conditions in WTC responders and certified-eligible survivors [physician reporting].	2,300	14	30/60	16,100
88.15	Appeals regarding treatment	588	1	30/60	294
88.15	Appeals regarding certification of health conditions	30	1	30/60	15
88.16	Reimbursement for medically necessary treatment, monitoring, initial health evaluations.	200	1	15/60	50

Section	Title	Number of respondents	Responses per respondent	Average burden per response	Total burden (in hours)
	Outpatient prescription pharmaceuticals	150	261	1/60	653
	Travel expenses	10	1	10/60	2
Total					* 19,111

* The physician reimbursement claim under § 88.16 is subtracted from the total because it is captured elsewhere.

D. Small Business Regulatory Enforcement Fairness Act

As required by Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), the Department will report the promulgation of this rule to Congress prior to its effective date.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) directs agencies to assess the effects of Federal regulatory actions on State, local, and Tribal governments, and the private sector ''other than to the extent that such regulations incorporate requirements specifically set forth in law.'' For purposes of the Unfunded Mandates Reform Act, this rule does not include any Federal mandate that may result in increased annual expenditures in excess of $100 million by State, local or Tribal governments in the aggregate, or by the private sector.

F. Executive Order 12988 (Civil Justice)

This rule has been drafted and reviewed in accordance with Executive Order 12988, ''Civil Justice Reform,'' and will not unduly burden the Federal court system. This rule has been reviewed carefully to eliminate drafting errors and ambiguities.

G. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' The rule does not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

H. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)

In accordance with Executive Order 13045, HHS has evaluated the environmental health and safety effects of this rule on children. HHS has determined that the rule would have no environmental health and safety effect on children.

I. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

In accordance with Executive Order 13211, HHS has evaluated the effects of this rule on energy supply, distribution or use, and has determined that the rule will not have a significant adverse effect.

J. Plain Writing Act of 2010

Under Public Law 111–274 (October 13, 2010), executive Departments and Agencies are required to use plain language in documents that explain to the public how to comply with a requirement the Federal Government administers or enforces. HHS has attempted to use plain language in promulgating this rule consistent with the Federal Plain Writing Act guidelines.

List of Subjects in 42 CFR Part 88

Aerodigestive disorders, Appeal procedures, Health care, Mental health conditions, Musculoskeletal disorders, Respiratory and pulmonary diseases.

Text of the Rule

For the reasons discussed in the preamble, the Department of Health and Human Services adds 42 CFR Part 88 as follows:

PART 88—WORLD TRADE CENTER HEALTH PROGRAM

Sec.

Authority: 42 U.S.C. 300mm–300mm–61, Pub. L. 111–347, 124 Stat. 3623.

§ 88.1 Definitions.

Act means the Title XXXIII of the Public Health Service Act, as amended, 42 U.S.C. 300mm through 300mm–61 (codifying Title I of the James Zadroga 9/11 Health and Compensation Act of 2010, Pub.L. 111–347), which created the World Trade Center (WTC) Health Program.

Aggravating means a health condition that existed on September 11, 2001, and that, as a result of exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, terrorist attacks, requires medical treatment that is (or will be) in addition to, more frequent than, or of longer duration than the medical treatment that would have been required for such condition in the absence of such exposure.

Certification means review and approval by the WTC Program Administrator of a screening-eligible survivor as eligible for monitoring and treatment, or a WTC-related health condition or a health condition medically associated with a WTC-related health condition in a particular WTC responder or certified-eligible survivor for the purpose of reimbursement of expenses for medically necessary treatment.

Certified-eligible survivor means:

(1) An individual who has been identified as eligible for medical treatment and monitoring as of January 2, 2011; or

(2) A screening-eligible WTC survivor who the WTC Program Administrator certifies to be eligible for follow-up

monitoring and treatment under § 88.10(f).

Clinical Center of Excellence means a center or centers under contract with the WTC Health Program. A Clinical Center of Excellence:

(1) Uses an integrated, centralized health care provider approach to create a comprehensive suite of health services that are accessible to enrolled WTC responders, screening-eligible WTC survivors, or certified-eligible survivors;

(2) Has experience in caring for WTC responders or screening-eligible and certified-eligible WTC survivors;

(3) Employs health care provider staff with expertise that includes, at a minimum, occupational medicine, environmental medicine, trauma-related psychiatry and psychology, and social services counseling; and

(4) Meets such other requirements as specified by the WTC Program Administrator.

Data Center means a center or centers under contract with the WTC Health Program to:

(1) Receive, analyze, and report to the WTC Program Administrator on data that have been collected and reported to the Data Center by the corresponding Clinical Center(s) of Excellence;

(2) Develop monitoring, initial health evaluation, and treatment protocols with respect to WTC-related health conditions;

(3) Coordinate the outreach activities of the corresponding Clinical Centers of Excellence;

(4) Establish criteria for credentialing of medical providers participating in the nationwide provider network;

(5) Coordinate and administer the activities of the WTC Health Program Steering Committees; and

(6) Meet periodically with the corresponding Clinical Center(s) of Excellence to obtain input on the analysis and reporting of data and on development of monitoring, initial health evaluation, and treatment protocols.

Designated representative means an individual selected by a WTC responder, a screening-eligible or a certified-eligible survivor to represent his or her interests to the WTC Health Program.

Ground Zero means a site in Lower Manhattan bounded by Vesey Street to the north, the West Side Highway to the west, Liberty Street to the south, and Church Street to the east in which stood the former World Trade Center complex.

Health condition medically associated with a World Trade Center (WTC)-related health condition means a condition that results from treatment of a WTC-related health condition or results from progression of a WTC-related health condition.

Initial health evaluation means assessment of one or more symptoms that may be associated with a WTC-related health condition and includes a medical and exposure history, a physical examination, and additional medical testing as needed to evaluate whether the individual has a WTC-related health condition and is eligible for treatment under the WTC Health Program.

List of WTC-related health conditions means the following disorders and conditions, including any other condition added to the list through procedures specified by the Act and under this part:

(1) Aerodigestive disorders:

(i) Interstitial lung disease.

(ii) Chronic respiratory disorder [fumes/vapors].

(iii) Asthma.

(iv) Reactive airways dysfunction syndrome [RADS].

(v) WTC-exacerbated chronic obstructive pulmonary disease [COPD].

(vi) Chronic cough syndrome.

(vii) Upper airway hyperactivity.

(viii) Chronic rhinosinusitis.

(ix) Chronic nasopharyngitis.

(x) Chronic laryngitis.

(xi) Gastroesophageal reflux disorder [GERD].

(xii) Sleep apnea exacerbated by or related to a condition described in preceding paragraphs (1)(i) through (1)(xi)of this definition.

(2) Mental health conditions:

(i) Posttraumatic stress disorder.

(ii) Major depressive disorder.

(iii) Panic disorder.

(iv) Generalized anxiety disorder.

(v) Anxiety disorder [not otherwise specified].

(vi) Depression [not otherwise specified].

(vii) Acute stress disorder.

(viii) Dysthymic disorder.

(ix) Adjustment disorder.

(x) Substance abuse.

(3) Musculoskeletal disorders for those WTC responders who received any treatment for a World Trade Center (WTC)-related musculoskeletal disorder (as defined in this section) on or before September 11, 2003:

(i) Low back pain.

(ii) Carpal tunnel syndrome [CTS].

(iii) Other musculoskeletal disorders.

Medical emergency means a physical or mental health condition for which immediate treatment is necessary.

Medically necessary treatment means the provision of services by physicians and other health care providers, diagnostic and laboratory tests, prescription drugs, inpatient and outpatient hospital services, and other care that is appropriate to manage, ameliorate or cure a WTC-related health condition or a health condition medically associated with a WTC-related health condition, and which conforms to medical treatment protocols developed by the Data Centers and approved by the WTC Program Administrator.

Monitoring means periodic physical and mental health assessment of a WTC responder or certified-eligible survivor in relation to exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, terrorist attacks and which includes a medical and exposure history, a physical examination and additional medical testing as needed for surveillance or to evaluate symptom(s) to determine whether the individual has a WTC-related health condition.

Nationwide provider network means a network of providers throughout the United States under contracts with the WTC Health Program to provide an initial health evaluation, monitoring and treatment to enrolled responders and screening-eligible or certified-eligible survivors who live outside the New York metropolitan area.

New York City disaster area means an area within New York City that is the area of Manhattan that is south of Houston Street and any block in Brooklyn that is wholly or partially contained within a 1.5-mile radius of the former World Trade Center complex.

New York metropolitan area means the combined statistical areas comprising the Bridgeport-Stamford-Norwalk, CT Metropolitan Statistical Area; Kingston, NY Metropolitan Statistical Area; New Haven-Milford, CT Metropolitan Statistical Area; New York-Northern New Jersey-Long Island, NY–NJ–PA Metropolitan Statistical Area; Poughkeepsie-Newburgh-Middletown, NY Metropolitan Statistical Area; Torrington, CT Micropolitan Statistical Area; Trenton-Ewing, NJ Metropolitan Statistical Area, as defined in OMB Bulletin 10–02, December 1, 2009.

NIOSH means the National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services.

One (1) day means the length of a standard work shift, or at least 4 hours but less than 24 hours.

Scientific/Technical Advisory Committee means the WTC Health Program Scientific/Technical Advisory Committee whose members are appointed by the WTC Program

Administrator to review scientific and medical evidence and to make recommendations to the WTC Program Administrator on additional WTC Health Program eligibility criteria and on additional WTC-related health conditions.

Screening-eligible survivor means an individual who is not a WTC responder and who claims symptoms of a WTC-related health condition and meets the eligibility criteria for a survivor specified in § 88.8 of this part.

September 11, 2001, terrorist attacks means the terrorist attacks that occurred on September 11, 2001, in New York City, at Shanksville, Pennsylvania, and at the Pentagon, and includes the aftermath of such attacks.

Staten Island Landfill means the landfill in Staten Island, NY called ''Fresh Kills.''

Terrorist watch list means the lists maintained by the Federal government that will be utilized to screen for known terrorists.

World Trade Center (WTC) Health Program means the program established by Title XXXIII of the Public Health Service Act as amended, 42 U.S.C. 300mm–300mm–61 (codifying Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347)), to provide medical monitoring and treatment benefits for eligible responders to the September 11, 2001, terrorist attacks and initial health evaluation, monitoring, and treatment benefits for residents and other building occupants and area workers in New York City who were directly impacted and adversely affected by such attacks.

World Trade Center (WTC) Program Administrator means the Director of the National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services, or his or her designee.

World Trade Center (WTC)-related health condition means an illness or health condition for which exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, terrorist attacks, based on an examination by a medical professional with expertise in treating or diagnosing the health conditions in the list of conditions, is substantially likely to be a significant factor in aggravating, contributing to, or causing the illness or health condition or a mental health condition. A WTC-related health condition includes conditions on the list of WTC-related health conditions as specified in this definition for WTC responders and certified-eligible survivors, and any other condition added to the list of WTC-related health conditions through procedures specified by the Act and under this part.

World Trade Center (WTC)-related musculoskeletal disorder means a chronic or recurrent disorder of the musculoskeletal system caused by heavy lifting or repetitive strain on the joints or musculoskeletal system occurring during rescue or recovery efforts in the New York City disaster area in the aftermath of the September 11, 2001, terrorist attacks.

World Trade Center (WTC) responder means an individual who has been identified as eligible for monitoring and treatment as described in § 88.3 or who meets the eligibility criteria in § 88.4.

§ 88.2 General provisions.

(a) Designated representative. (1) An applicant, enrolled responder, screening-eligible survivor, or certified-eligible survivor may appoint one individual to represent his or her interests under the WTC Health Program. The appointment must be in writing.

(2) There may be only one representative at any time. After one representative has been properly appointed, the WTC Health Program will not recognize another individual as a representative until the appointment of the first designated representative is withdrawn.

(3) A properly appointed representative who is recognized by the WTC Health Program may make a request or give direction to the WTC Health Program regarding the eligibility or certification determinations under the WTC Health Program, including appeals. Any notice requirement contained in this part or in the Act is fully satisfied if sent to the designated representative.

(4) An enrolled responder, screening-eligible survivor, or certified-eligible survivor may authorize any individual to represent him or her in regard to the WTC Health Program, unless that individual's service as a representative would violate any applicable provision of law (such as 18 U.S.C. 205 and 208).

(5) A Federal employee may act as a representative only on behalf of the individuals specified in, and in the manner permitted by, 18 U.S.C. 203 and 18 U.S.C. 205.

(6) If a screening-eligible or certified-eligible survivor is a minor, a parent or guardian may act on his or her behalf.

(b) [Reserved]

§ 88.3 Eligibility—currently identified responders.

(a) Responders who were identified as eligible for monitoring and treatment under the arrangements as in effect on January 2, 2011, between NIOSH and the consortium administered by Mount Sinai School of Medicine in New York City and the Fire Department, City of New York, are enrolled in the WTC Health Program.

(1) No individual who is determined to be a positive match to the terrorist watch list maintained by the Federal government will be considered to be enrolled in the WTC Health Program.

(2) [Reserved]

(b) WTC Responders identified as enrolled under this section are not required to submit an application to the WTC Health Program.

§ 88.4 Eligibility criteria—status as a WTC responder.

(a) Responders to the New York City disaster area who have not been previously identified as eligible as provided for under § 88.3 of this part may apply for enrollment in the WTC Health Program on or after July 1, 2011. Such individuals must meet the criteria in one of the following categories to be considered eligible for enrollment:

(1) Firefighters and related personnel must meet the criteria specified in paragraph (a)(1)(i) or (ii) of this section:

(i) The individual was an active or retired member of the Fire Department, City of New York (whether firefighter or emergency personnel), and participated at least 1 day in the rescue and recovery effort at any of the former World Trade Center sites (including Ground Zero, the Staten Island Landfill, or the New York City Chief Medical Examiner's Office), during the period beginning on September 11, 2001, and ending on July 31, 2002; or

(ii) The individual is:

(A) A surviving immediate family member of an individual who was an active or retired member of the Fire Department, City of New York (whether firefighter or emergency personnel), who was killed at Ground Zero on September 11, 2001, and

(B) Received any treatment for a WTC-related mental health condition on or before September 1, 2008.

(2) Law enforcement officers and WTC rescue, recovery, and cleanup workers must meet the criteria specified in paragraph (a)(2)(i) or (ii) of this section:

(i) The individual worked or volunteered onsite in rescue, recovery, debris cleanup, or related support services in lower Manhattan (south of Canal Street), the Staten Island Landfill, or the barge loading piers, for at least:

(A) 4 hours during the period beginning on September 11, 2001, and ending on September 14, 2001; or

(B) 24 hours during the period beginning on September 11, 2001, and ending on September 30, 2001; or

(C) 80 hours during the period beginning on September 11, 2001, and ending on July 31, 2002.

(ii) The individual was an active or retired member of the New York City Police Department or an active or retired member of the Port Authority Police of the Port Authority of New York and New Jersey who participated onsite in rescue, recovery, debris cleanup, or related support services, for at least:

(A) 4 hours during the period beginning September 11, 2001, and ending on September 14, 2001, in lower Manhattan (south of Canal Street), including Ground Zero, the Staten Island Landfill, or the barge loading piers; or

(B) 1 day beginning on September 11, 2001, and ending on July 31, 2002, at Ground Zero, the Staten Island Landfill, or the barge loading piers; or

(C) 24 hours during the period beginning on September 11, 2001, and ending on September 30, 2001, in lower Manhattan (south of Canal Street); or

(D) 80 hours during the period beginning on September 11, 2001, and ending on July 31, 2002, in lower Manhattan (south of Canal Street).

(3) Office of the Chief Medical Examiner of New York City employee. The individual was an employee of the Office of the Chief Medical Examiner of New York City involved in the examination and handling of human remains from the WTC attacks, or other morgue worker who performed similar post-September 11 functions for such Office staff, during the period beginning on September 11, 2001, and ending on July 31, 2002.

(4) Port Authority Trans-Hudson Corporation Tunnel worker. The individual was a worker in the Port Authority Trans-Hudson Corporation Tunnel for at least 24 hours during the period beginning on February 1, 2002, and ending on July 1, 2002.

(5) Vehicle-maintenance worker. The individual was a vehicle-maintenance worker who was exposed to debris from the former World Trade Center while retrieving, driving, cleaning, repairing, and maintaining vehicles contaminated by airborne toxins from the September 11, 2001, terrorist attacks; and conducted such work for at least 1 day during the period beginning on September 11, 2001, and ending on July 31, 2002.

(b) [Reserved]

(c) [Reserved]

(d) [Reserved]

(e) The WTC Program Administrator will maintain a list of WTC responders.

§ 88.5 Application process—status as a WTC responder.

(a) An application to the WTC Health Program based on the criteria in § 88.4 shall be submitted with documentation of the applicant's employment affiliation (if relevant) and work activity during the dates, times, and locations specified in § 88.4.

(1) Documentation may include but is not limited to a pay stub; official personnel roster; a written statement, under penalty of perjury by an employer; site credentials; or similar documentation.

(2) An applicant who is unable to submit the required documentation must instead offer a written explanation of how he or she tried to obtain proof of presence, residence, or work activity and why the attempt was unsuccessful. The applicant shall attest, under penalty of perjury, that he or she meets the criteria specified in § 88.4.

(b) The application and supporting documentation shall be submitted to the WTC Program Administrator for consideration.

§ 88.6 Enrollment determination—status as a WTC responder.

(a) The WTC Program Administrator will prioritize applications in the order in which they are received.

(b) The WTC Program Administrator will determine if the applicant meets the eligibility criteria provided in § 88.4 and notify the applicant in writing (or by e-mail if an e-mail address is provided by the applicant) of any deficiencies in the application or the supporting documentation.

(c) Denial of enrollment.

(1) The WTC Program Administrator will deny enrollment if the applicant fails to meet the applicable eligibility requirements.

(2) The WTC Program Administrator may deny enrollment of a responder who is otherwise eligible and qualified if the WTC Program Administrator determines that the Act's numerical limitations for newly enrolled responders have been met.

(i) No more than 25,000 WTC responders, other than those enrolled pursuant to § 88.3 and § 88.4(a)(1)(ii), may be enrolled at any time.

(A) The WTC Program Administrator may determine, based on the best available evidence, that sufficient funds are available under the WTC Health Program Fund to provide treatment and monitoring only for individuals who are already enrolled as WTC responders at that time.

(B) [Reserved]

(ii) [Reserved]

(3) No individual who is determined to be a positive match to the terrorist watch list maintained by the Federal government may qualify to be enrolled or determined to be eligible for the WTC Health Program.

(d) Notification of enrollment determination.

(1) Applicants who meet the current eligibility criteria for WTC responders in § 88.4 and are qualified shall be notified in writing by the WTC Program Administrator of the enrollment decision within 60 calendar days of the date of receipt of the application.

(2) If the WTC Program Administrator determines that an applicant is denied enrollment, the applicant will be notified in writing and provided an explanation, as appropriate for the determination to deny enrollment. The notification will inform the applicant of the right to appeal the initial denial of eligibility and provide instructions on how to file an appeal.

§ 88.7 Eligibility—currently identified survivors.

(a) Survivors who have been identified as eligible for medical treatment and monitoring as of January 2, 2011, are considered certified-eligible in the WTC Health Program.

(1) No individual who is determined to be a positive match to the terrorist watch list maintained by the Federal government will be considered to be a certified-eligible survivor in the WTC Health Program.

(2) [Reserved]

(b) Survivors identified as certified-eligible under this section are not required to submit an application to the WTC Health Program.

§ 88.8 Eligibility criteria—status as a WTC survivor.

(a) *Criteria for status as a screening-eligible survivor.* An individual who is not a WTC responder, claims symptoms of a WTC-related health condition, and who has not been previously identified as eligible under § 88.7 may apply to the WTC Program Administrator on or after July 1, 2011, for a determination of eligibility for an initial health evaluation.

(1) The WTC Program Administrator will determine an applicant's eligibility for an initial health evaluation based on one of the following criteria:

(i) The screening applicant was present in the dust or dust cloud in the New York City disaster area on September 11, 2001.

(ii) The screening applicant worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area, for at least:

(A) 4 days during the period beginning on September 11, 2001, and ending on January 10, 2002; or

(B) 30 days during the period beginning on September 11, 2001, and ending on July 31, 2002.

(iii) The screening applicant worked as a cleanup worker or performed maintenance work in the New York City disaster area during the period beginning on September 11, 2001, and ending on January 10, 2002, and had extensive exposure to WTC dust as a result of such work.

(iv) The screening applicant:

(A) Was deemed eligible to receive a grant from the Lower Manhattan Development Corporation Residential Grant Program;

(B) Possessed a lease for a residence or purchased a residence in the New York City disaster area; and

(C) Resided in such residence during the period beginning on September 11, 2001, and ending on May 31, 2003.

(v) The screening applicant is an individual whose place of employment—

(A) At any time during the period beginning on September 11, 2001, and ending on May 31, 2003, was in the New York City disaster area; and

(B) Was deemed eligible to receive a grant from the Lower Manhattan Development Corporation WTC Small Firms Attraction and Retention Act program or other government incentive program designed to revitalize the lower Manhattan economy after the September 11, 2001, terrorist attacks.

(2) [Reserved]

(b) *Criteria for status as a certified-eligible survivor.* Survivors who have been determined to have screening-eligible status under § 88.10(a), may seek status as a certified-eligible survivor. Status as a certified-eligible survivor is based on a certification by the WTC Program Administrator that, pursuant to an initial health evaluation, the screening-eligible survivor has a WTC-related health condition and is eligible for follow-up monitoring and treatment.

(c) The WTC Program Administrator will maintain a list of screening-eligible and certified-eligible survivors.

§ 88.9 Application process—status as a WTC survivor.

(a) *Application for status as a screening-eligible survivor.* An application to the WTC Health Program based on the criteria in § 88.8(a) shall be submitted with documentation of the applicant's location, presence or residence, and/or work activity during the relevant time period.

(1) Documentation may include but is not limited to: Proof of residence, such as a lease or utility bill; attendance roster at a school or daycare; or pay stub, other employment documentation, or written statement, under penalty of perjury, by an employer indicating employment location during the relevant time period, or similar documentation. The applicant shall also attest to symptoms of a WTC-related health condition.

(2) An applicant who is unable to submit the required documentation must instead offer a written explanation of how he or she tried to obtain proof of location, presence, or residence, and/or work activity and why the attempt was unsuccessful. The applicant shall attest, under penalty of perjury, that he or she meets the criteria specified in § 88.8.

(b) *Status as a certified-eligible survivor.* No additional application is required for status as a certified-eligible survivor. If, based upon the screening-eligible survivor's initial health evaluation (*see* § 88.10(e)), the WTC Program Administrator certifies the diagnosis of a WTC-related health condition, then the survivor will also obtain status as a certified-eligible survivor.

§ 88.10 Enrollment determination—status as a WTC survivor.

(a) *Screening-eligible survivor status determination.* (1) The WTC Program Administrator will determine if the applicant meets the screening-eligibility criteria pursuant to § 88.8(a), and notify the applicant in writing (or by e-mail if an e-mail address is provided by the applicant) of any deficiencies in the application or the supporting documentation.

(b) *Denial of screening-eligible status.* (1) The WTC Program Administrator may deny screening-eligible status if the applicant is ineligible under the criteria specified in § 88.8(a).

(2) The WTC Program Administrator may deny screening-eligible survivor status if the numerical limitation on certified-eligible survivors in § 88.10(f)(2) has been met.

(3) No individual who is determined to be a positive match to the terrorist watch list maintained by the Federal government, may qualify to be a screening-eligible survivor in the WTC Health Program.

(c) *Notification of screening-eligible status determination.* (1) An individual who applies under the eligibility criteria in § 88.8(a) will be notified of his or her status as a screening-eligible survivor within 60 days of the date of transmission of the application.

(2) If the WTC Program Administrator determines that an applicant is denied enrollment, the applicant shall be notified in writing and provided an explanation, as appropriate for the determination to deny enrollment. The notification shall inform the applicant of the right to appeal the initial denial of eligibility and provide instructions on how to file an appeal.

(d) *Initial health evaluation for screening-eligible survivors.* (1) A WTC Health Program Clinical Center of Excellence or a member of the nationwide network provider will provide the screening-eligible survivor an initial health evaluation to determine if the individual has a WTC-related health condition and is eligible for follow-up monitoring and treatment benefits under the WTC Health Program.

(2) The WTC Health Program will provide only one initial health evaluation per screening-eligible survivor. The individual may request additional health evaluations at his or her own expense.

(3) If the physician diagnoses the screening-eligible survivor with a WTC-related health condition, the physician shall promptly transmit to the WTC Program Administrator his or her determination, consistent with the requirements of § 88.12(a).

(e) *Certified-eligible survivor status determination.* (1) The WTC Program Administrator will prioritize certifications in the order in which they are received.

(2) The WTC Program Administrator will review the physician's determination, render a decision regarding certification of the individual's diagnosed WTC-related health condition, and provide written notice of the decision and the reason for the decision.

(3) If the individual's condition is certified as a WTC-related health condition, the individual will also be certified as a certified-eligible survivor.

(f) *Denial of certified-eligible survivor status.* (1) The WTC Program Administrator will deny certified-eligible status if he or she determines that the screening-eligible survivor does not have a WTC-related health condition as determined pursuant to §§ 88.12 and 88.13 of this part.

(2) The WTC Program Administrator may deny certified-eligible survivor status of an otherwise eligible and qualified screening-eligible survivor if the WTC Program Administrator determines that the Act's numerical limitations for certified-eligible survivors have been met.

(i) No more than 25,000 individuals, other than those described in § 88.7 of this part, may be determined to certified-eligible survivors at any time.

(A) The WTC Program Administrator may determine, based on the best

available evidence, that sufficient funds are available under the WTC Health Program Fund to provide treatment and monitoring only for individuals who have already been certified as certified-eligible survivors at that time.

(B) [Reserved]

(ii) [Reserved]

(3) No individual who is determined to be a positive match to the terrorist watch list maintained by the Federal government may qualify to be a certified-eligible survivor in the WTC Health Program.

(g) *Notification of certified-eligible status determination.* (1) An individual who is certified by the WTC Program Administrator as a certified-eligible survivor will be notified in writing by the WTC Program Administrator.

(2) If the WTC Program Administrator denies certification of the screening-eligible survivor's health condition, the screening-eligible survivor may appeal the WTC Program Administrator's decision to deny certification, as provided under § 88.15.

§ 88.11 Appeals regarding eligibility determinations—responders and survivors.

(a) An individual or his or her designated representative may appeal a denial of enrollment as a WTC responder or a denial of a determination of status as a screening-eligible survivor by sending a written letter to the WTC Program Administrator at the address specified in the notice of denial.

(1) The letter shall be sent within 60 days of the date of the WTC Program Administrator's notification letter, and shall state the reasons why the individual believes the denial was incorrect and may include relevant new evidence not previously considered by the WTC Program Administrator.

(2) Where the denial is based on information from the terrorist watch list, the appeal will be forwarded to the appropriate Federal agency.

(b) The WTC Program Administrator will designate a Federal official independent of the WTC Health Program to review the appeal. The Federal official will issue a final decision after receipt and review.

(c) The WTC Program Administrator may reopen and reconsider a denial at any time.

§ 88.12 Physician's determination of WTC-related health conditions.

(a) A physician in a Clinical Center of Excellence or a member of the nationwide provider network shall promptly transmit to the WTC Program Administrator a diagnosis and the basis for the diagnosis of a WTC-related health condition or health condition medically associated with a WTC-related health condition. The physician's diagnosis shall be made based on an assessment of the following:

(1) The individual's exposure to airborne toxins, any other hazard or any other adverse condition resulting from the September 11, 2001, terrorist attacks.

(2) The type of symptoms experienced by the individual and the temporal sequence of those symptoms.

(b) For a health condition medically associated with a WTC-related health condition, the physician's determination shall contain information establishing how the health condition has resulted from treatment of a previously certified WTC-related health condition or how it has resulted from progression of the certified WTC-related health condition.

§ 88.13 WTC Program Administrator's certification of health conditions.

(a) *WTC-related health condition.* (1) The WTC Program Administrator will review each physician determination, render a decision regarding certification, and notify the WTC responder, screening-eligible survivor, or certified-eligible survivor of the WTC Program Administrator's decision and the reason for the decision in writing.

(2) If certification is denied, the WTC responder, screening-eligible survivor, or certified-eligible survivor may appeal the WTC Program Administrator's decision to deny certification, as provided under § 88.15.

(b) *Health condition medically associated with a WTC-related health condition.* (1) The WTC Program Administrator will review each physician determination, render a decision regarding certification, and notify the WTC responder or certified-eligible survivor in writing of the WTC Program Administrator's decision and the reason for the decision.

(i) In the course of review, the WTC Program Administrator may seek a recommendation about certification from a physician panel with appropriate expertise for the condition.

(ii) [Reserved]

(2) If certification is denied, the WTC responder or certified-eligible survivor may appeal the WTC Program Administrator's decision to deny certification, as provided under § 88.15.

(c) *Treatment pending certification.* While certification is pending, authorization for treatment of a WTC-related health condition or a health condition medically associated with a WTC-related health condition shall be obtained from the WTC Program Administrator before treatment is provided, except for the provision of treatment for a medical emergency.

§ 88.14 Standard for determining medical necessity.

All treatment provided under the WTC Health Program will adhere to a standard which is reasonable and appropriate; based on scientific evidence, professional standards of care, expert opinion or any other relevant information; and which has been included in the medical treatment protocols developed by the Data Centers and approved by the WTC Program Administrator.

§ 88.15 Appeals regarding treatment.

(a) Individuals may appeal the following decisions made by the WTC Program Administrator: not to certify a health condition as a WTC-related condition; not to certify a health condition as medically associated with a WTC-related health condition; or not to authorize treatment due to a determination by the WTC Program Administrator about medical necessity for a certified WTC-related health condition.

(1) A WTC responder, screening-eligible survivor denied status as a certified-eligible survivor, certified-eligible survivor, or designated representative may appeal a determination by the WTC Program Administrator denying certification of the individual's health condition for coverage under the WTC Health Program or a determination that treatment will not be authorized as medically necessary.

(2) Appeal shall be made in writing, describe the reason(s) why the individual believes the determination is incorrect, and be postmarked within 60 calendar days of the date of the WTC Program Administrator's letter notifying the individual of the WTC Program Administrator's adverse determination. No new documentation will be considered in the appeal process that was not available to the WTC Program Administrator at the time of his or her initial determination.

(b) *Review of appeal.* (1) The WTC Program Administrator will appoint a Federal official to conduct the appeal.

(2) The Federal official may convene one or more qualified experts, independent of the WTC Health Program, to review the WTC Program Administrator's initial determination. The expert reviewers shall base their review and recommendation on the documentation available to the WTC Program Administrator when the initial determination was made. The reviewers

shall submit their findings to the Federal official.

(3) The Federal official shall review the expert reviewers' findings and make a final determination, which will be sent to the WTC Program Administrator and the individual who filed the appeal. No further requests for review of this final determination will be considered.

(c) At any time, the WTC Program Administrator may reopen a final determination (pursuant to paragraph (b)(2) of this section) and may affirm, vacate, or modify such final determination in any manner he or she deems appropriate.

§ 88.16 Reimbursement for medically necessary treatment, outpatient prescription pharmaceuticals, monitoring, initial health evaluations, and travel expenses.

(a) *Medically necessary treatment and outpatient prescription pharmaceuticals.* (1) The costs of providing medically necessary treatment or services for a WTC-related health condition or a health condition medically associated with a WTC-related health condition by a Clinical Center of Excellence or by a member of the nationwide provider network will be reimbursed according to the payment rates that apply to the provision of such treatment and services by the facility under the Federal Employees Compensation Act (5 U.S.C. 8101 *et seq.,* 20 CFR Part 20).

(i) The WTC Program Administrator will reimburse a Clinical Center of Excellence or a member of the nationwide provider network for treatment not covered under the Federal Employees Compensation Act pursuant to the applicable Medicare fee for service rate, as determined appropriate by the WTC Program Administrator.

(ii) [Reserved]

(2) Payment for costs of medically necessary outpatient prescription pharmaceuticals for a WTC-related health condition or health condition medically associated with a WTC-related health condition will be reimbursed by the WTC Program Administrator under a contract with one or more pharmaceutical providers.

(b) *Monitoring and initial health evaluations.* (1) Payment for the costs of providing monitoring and initial health evaluations to a WTC responder, screening-eligible survivor, or certified-eligible survivor by a Clinical Center of Excellence or a member of the nationwide provider network will be reimbursed according to the payment rates that would apply to the provision of such treatment and services under the Federal Employees Compensation Act (5 U.S.C. 8101 *et seq.,* 20 CFR Part 20).

(c) *Review of claims for reimbursement for medically necessary treatment.* (1) Each claim for reimbursement for treatment will be reviewed by the WTC Program Administrator.

(2) If the WTC Program Administrator determines that the treatment is not medically necessary, reimbursement will be withheld by the WTC Program Administrator.

(d) *Transportation and travel expenses.* The WTC Program Administrator may provide for necessary and reasonable transportation and expenses incident to the securing of medically necessary treatment through the nationwide provider network, involving travel of more than 250 miles.

Dated: May 6, 2011.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

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Part VII

Department of Health and Human Services

42 CFR Part 88
World Trade Center Health Program Requirements for the Addition of New WTC-Related Health Conditions; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Docket No. CDC–2011–0010]

42 CFR Part 88

RIN 0920–AA45

World Trade Center Health Program Requirements for the Addition of New WTC-Related Health Conditions

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: Title I of the James Zadroga Health and Compensation Act of 2010 amended the Public Health Service Act (PHS Act) to establish the World Trade Center (WTC) Health Program. Sections 3311, 3312, and 3321 of Title XXXIII of the PHS Act require that the WTC Program Administrator develop regulations to implement portions of the WTC Health Program established within the Department of Health and Human Services (HHS). The WTC Health Program, which will be administered in part by the Director of the National Institute for Occupational Safety and Health (NIOSH), within the Centers for Disease Control and Prevention (CDC), will provide medical monitoring and treatment to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers who responded to the September 11, 2001, terrorist attacks in New York City, Shanksville, PA, and at the Pentagon, and to eligible survivors of the New York City attacks. The proposed rule establishes the processes by which the WTC Program Administrator may add a new condition to the list of WTC-related health conditions through rulemaking, including a process for considering petitions by interested parties to add a new condition.

DATES: HHS invites written comments from interested parties on this notice of proposed rulemaking and on the proposed information collection request sought under the Paperwork Reduction Act. Comments must be received by August 30, 2011.

ADDRESSES: You may submit comments, identified by ''RIN 0920–AA45,'' by any of the following methods:

- *Internet:* Access the Federal e-rulemaking portal at *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail:* NIOSH Docket Officer, *nioshdocket@cdc.gov.* Include ''RIN 0920–AA45'' and ''42 CFR 88'' in the subject line of the message.
- *Mail:* NIOSH Docket Office, Robert A. Taft Laboratories, MS–C34, 4676 Columbia Parkway, Cincinnati, OH 45226.

Instructions: All submissions received must include the agency name and docket number or Regulation Identifier Number (RIN) for this rulemaking. All comments will be posted without change to *http://www.regulations.gov* and *http://www.cdc.gov/niosh/docket/NIOSHdocket0236.html,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or *http://www.cdc.gov/niosh/docket/NIOSHdocket0236.html.*

FOR FURTHER INFORMATION CONTACT: Roy M. Fleming, Sc.D., Senior Science Advisor, World Trade Center Health Program, Office of the Director, National Institute for Occupational Safety and Health, 1600 Clifton Road, NE., MS–E74, Atlanta, GA 30329; telephone 866–426–3673 (this is a toll-free number). Information request may also be submitted by e-mail to *wtcpublicinput@cdc.gov.*

SUPPLEMENTARY INFORMATION: This preamble is organized as follows:

I. Public Participation

Interested persons or organizations are invited to participate in this rulemaking by submitting written views, opinions, recommendations, and data. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. Comments are invited on any topic related to this proposed rule.

II. Background

A. WTC Medical Monitoring and Treatment Program and the WTC Environmental Health Center Community Program History

Since the tragic events of September 11, 2001, HHS, CDC, and NIOSH have facilitated health evaluations for those firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers who responded to the WTC disaster sites. A health screening program for responders began in 2002 under contracts awarded to Mount Sinai School of Medicine (Mount Sinai) and the Fire Department, City of New York. Mount Sinai subcontracted with other specialty occupational health clinics in the New York metropolitan area to expand enrollment and provide a standardized and comprehensive health screening protocol.

In 2003, Congress appropriated further funding to implement longer term medical monitoring for these responders. The occupational health specialty clinics involved in the screening program were each directly funded through cooperative agreements with NIOSH to work collaboratively and provide periodic standardized medical monitoring exams. Participants in the initial screening program were enrolled beginning in 2004.

In 2006, Congress appropriated additional funds for diagnostic and treatment services to support medical care for health conditions associated with WTC-related work exposures. After receiving appropriations for treatment, the responder program was re-named the WTC Medical Monitoring and Treatment Program (MMTP) to reflect expanded services to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers. The established program providers were funded as Clinical Centers of Excellence (Clinical Centers) reflecting their multidisciplinary expertise and extensive program experience with the WTC responder population. The MMTP made monitoring exams and treatment

available to firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers living outside the New York metropolitan area and geographically distant from the established Clinical Centers through a network of providers. The health conditions covered under the MMTP were identified by the Clinical Centers based on assessments of the health needs of the firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers and with input from scientific and medical experts, and included certain upper and lower airway diseases, esophageal disorders from acid reflux, musculoskeletal injuries, and mental health problems (most notably post-traumatic stress disorder, anxiety, and depression).

In 2008, Congress appropriated additional funds for the WTC Environmental Health Center (EHC) Community Program, which provided initial health evaluations, diagnostic and treatment services for residents, students, and others in the community who were affected by the September 11, 2001, terrorist attacks in New York City.

B. WTC Health Program Statutory Authority

Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347), amended the Public Health Service Act (PHS Act) to add Title XXXIII [1] establishing the WTC Health Program within HHS. The WTC Health Program will assume the functions and goals of the MMTP and the EHC Community Program to provide medical monitoring and treatment benefits to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers (including those who are Federal employees) who responded to the September 11, 2001, terrorist attacks, and to eligible survivors of the New York City attacks.

The WTC Health Program will expand the services of the MMTP to include eligible firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers who responded to the September 11, 2001, terrorist attacks at the Pentagon and Shanksville, PA. Section 3311(a)(2)(C)(ii) of Title XXXIII requires that the WTC Program Administrator develop eligibility criteria for Pentagon and Shanksville, PA emergency responders after consultation with the WTC Scientific/Technical Advisory Committee. However, because no Pentagon or Shanksville, PA responders have participated in the existing MMTP, the WTC Program Administrator currently lacks information that may serve as a basis for such enrollment, including information on participation in the response at these two sites and on hazard exposure circumstances at these sites relevant to currently established WTC health conditions. The WTC Program Administrator will be collecting such information.

Title XXXIII of the PHS Act authorizes the Secretary of HHS to designate a Department official to be the WTC Program Administrator (Title XXXIII, § 3306(14)). Certain specific activities of the WTC Program Administrator are reserved to the Secretary to delegate at her discretion; other WTC Program Administrator duties not explicitly reserved to the Secretary are assigned to the Director of NIOSH or his or her designee. This rule implements portions of the Act which were both given to the Director of NIOSH and others for which the HHS Secretary has designated the Director of NIOSH to be the WTC Program Administrator. Another HHS component, Centers for Medicare & Medicaid Services, has been delegated responsibilities for disbursing payments to providers under the WTC Health Program (see Delegation of Authority, 76 FR 31337, May 31, 2011). All references to the WTC Program Administrator in this notice mean the NIOSH Director or his or her designee.

Under section 3306 of Title XXXIII of the PHS Act, the WTC Program Administrator is responsible for a program to enroll qualified firefighters and related personnel, law enforcement officers, and rescue, recovery and cleanup workers who responded to the New York City, Pentagon, and Shanksville, PA disaster sites; screen and certify qualified survivors of the New York City attacks; and to establish a nationwide system of healthcare providers to provide monitoring and treatment to those individuals found eligible. The WTC Program Administrator is also required to promulgate regulations to determine medical necessity with respect to healthcare services and prescription pharmaceuticals; to certify WTC-related health conditions identified in the statute; and to establish processes for appealing adverse WTC Health Program determinations. Those statutory requirements are included in the interim final rule published elsewhere in this issue of the **Federal Register**.

Title XXXIII of the PHS Act also authorizes the WTC Program Administrator to establish a process by which health conditions, including cancer, may be considered for addition to the list of WTC-related health conditions. Those provisions are included in this NPRM.

C. Addition of New Health Conditions for Coverage in the WTC Health Program

The list of WTC-related health conditions defined in sections 3312 and 3322 of Title XXXIII of the PHS Act may be amended in the future to add other conditions

for which exposure to airborne toxins, any other hazard, or any other adverse condition resulting from the September 11, 2001, terrorist attacks, based on an examination by a medical professional with experience in treating or diagnosing the health conditions included in the applicable list of WTC-related health conditions, is substantially likely to be a significant factor in aggravating, contributing to, or causing the illness or condition (Title XXXIII, § 3312(a)(1)(A)(i)).

Procedures for the addition of a new condition, which include rulemaking as required by Title XXXIII, are proposed in this notice. The addition of a new condition could be initiated either by petition from an interested party or at the discretion of the WTC Program Administrator, as specified in this proposed rule.

III. Summary of Proposed Rule

Section 88.1 Definitions

This amendment to Part 88 would add the definition of ''interested party'' to the list of definitions.

Section 88.17 Addition of Health Conditions to the List of WTC-Related Health Conditions

Pursuant to requirements specified in Title XXXIII of the PHS Act, § 88.17 would establish the process by which an interested party could petition the WTC Program Administrator to add a condition to the list of WTC-related health conditions identified in § 88.1. Under the provisions of (a)(1), the petition must include the name and contact information of the interested party; the name and description of the condition the party would like to see added to the list of WTC-related health conditions; and an explanation of the reasons for adding the condition, which must include the medical basis for the association between the September 11, 2001, terrorist attacks and the condition to be added. The provisions of (a)(2) would incorporate specifications in

[1] Title XXXIII of the Public Health Service Act is codified at 42 U.S.C. 300mm to 300mm-61. Those portions of the Zadroga Act found in Titles II and III of Public Law 111–347 do not pertain to the World Trade Center Health Program and are codified elsewhere.

Title XXXIII of the PHS Act regarding the addition of new conditions. Within 60 days of receipt of the petition, the WTC Program Administrator will either: request a recommendation of the WTC Health Program Scientific/Technical Advisory Committee; open the proposed condition to public comment by publishing an NPRM in the **Federal Register**; publish the WTC Program Administrator's determination not to publish an NPRM; or publish in the **Federal Register** a determination that not enough evidence exists to perform any of the above actions. If the WTC Program Administrator receives more than one petition to add a specific health condition, the WTC Program Administrator could consider them simultaneously under the process established by the provisions of this section.

Subsection (b) would also incorporate the statutory requirement that the WTC Program Administrator may, periodically, publish an NPRM concerning the addition of a WTC-related health condition. The Administrator would consider publishing an NPRM where the review of cancers required by Title XXXIII § 3312(a)(5)(A) of the PHS Act indicates that a type of cancer should be added, or where WTC Health Program monitoring data reveals the prevalence of a condition not previously identified by the Program. Although the WTC Administrator cannot provide a specific scientific review protocol at this time, the protocol would take into account evaluating the exposure data associated with WTC and evaluating available published and unpublished epidemiologic, toxicologic, and medical evidence relevant to evaluating the possible association between the health condition under consideration and WTC exposures. How these various relevant sources of scientific and medical information will be evaluated, separately and in relation to each other would depend on the evidence available for a given health condition under consideration. HHS notes that scientists generally look for consistency in terms of disease-mechanism theories, toxicologic and epidemiologic findings, and medical observation. The addition of any health condition requires rulemaking and the public will have the opportunity to consider and comment on the review methods applied in any actual case. HHS solicits comment on this and other approaches to reviewing evidence.

The WTC Program Administrator may extend the period described above upon finding a good cause. In the case of such an extension, the Administrator shall publish such an extension in the **Federal Register**.

IV. Regulatory Assessment Requirements

A. Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives of significant regulatory actions and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This proposed rule is considered a ''significant regulatory action'' within the meaning of E.O. 12866. The rule establishes processes by which the WTC Program Administrator may consider the addition of health conditions to the current statutory list of WTC-related health conditions covered by this program. This strictly procedural rule does not itself propose the addition of any conditions and hence does not achieve any benefits nor impose any costs, other than the minor incidental administrative costs to HHS of considering possible additions. Under any circumstance, HHS would be required to conduct rulemaking to make an addition, as required by Title XXXIII of the PHS Act. Accordingly, any costs and benefits associated with adding a condition would be addressed in such future rulemaking. This rule does not adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; it does not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; it does not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; nor does it raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires each agency to consider the potential impact of its regulations on small entities including small businesses, small governmental units, and small not-for-profit organizations. HHS believes that this rule has ''no significant economic impact upon a substantial number of small entities'' within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This regulation has no impact on small businesses or other small entities as specified under the RFA. The rule establishes procedures by which the WTC Health Program Administrator may consider the addition of health conditions to the current statutory list of WTC-related health conditions covered by this program. These procedures do not impose any requirements or direct costs on small entities. They do not involve small entities, except that a small entity could potentially be considered an ''interested party'' under these procedures, eligible to petition the WTC Program Administrator for the addition of a health condition. Such petitioning by a small entity would be voluntary, however, and hence any costs attendant to submitting a petition would be voluntarily incurred.

The Secretary of HHS has certified to the Chief Counsel, Office of Advocacy of the Small Business Administration, that this rule does not have a significant impact on a substantial number of small entities. Accordingly, no regulatory impact analysis is required.

C. Paperwork Reduction Act

CDC has determined that this notice of proposed rulemaking contains information collection requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–1420). A description of these provisions is given below with an estimate of the annual reporting burden. Included in the estimate of the annual reporting burden is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information. In compliance with the requirement of § 3506(c)(2)(A) of the PRA for opportunity for public comment on proposed data collection projects, CDC will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–5960 and send comments to Daniel Holcomb, CDC Reports Clearance Officer, 1600 Clifton Road, NE., MS–D74, Atlanta, GA 30333 or send an e-mail to *omb@cdc.gov.*

Comments are invited on (a) whether the proposed collection of information

is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents. Written comments should be received within 60 days of this notice.

Proposed Project: Adding a Health Condition to the Statutory List of WTC-Related Health Conditions (42 CFR 88)—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description: Title I of the James Zadroga Health and Compensation Act of 2010 amended the Public Health Service Act (PHS Act) to establish the World Trade Center (WTC) Health Program. Sections 3311, 3312, and 3321 of Title XXXIII of the PHS Act require that the WTC Program Administrator develop regulations to implement portions of the WTC Health Program established within the Department of Health and Human Services (HHS). This proposed rule establishes the processes by which the WTC Program Administrator may add a new condition to the list of WTC-related health conditions through rulemaking, including a process for considering petitions by interested parties to add a new condition. The new provision is proposed at § 88.17 Addition of health conditions to the list of WTC-related health conditions.

§ 88.17 Addition of Health Conditions to the List of WTC-Related Health Conditions

This section describes the proposed process and data collection requirements that an interested party should follow to petition the WTC Program Administrator to add a condition to the list of WTC-related health conditions. HHS expects to receive no more than 100 petitions annually. We assume that interested parties will be enrolled WTC responders, certified-eligible survivors, or members of groups who advocate on behalf of responders or survivors. We estimate that an individual will spend an average of 40 hours gathering information to substantiate a request to add a health condition and assembling the petition. HHS requests input from the public on these estimates, which are reflected in the table below.

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Responder/Survivor/Advocate	Petition for the addition of health conditions.	100	1	40	4,000

D. Small Business Regulatory Enforcement Fairness Act

As required by Congress under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), HHS will report the promulgation of this rule to Congress prior to its effective date.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*) directs agencies to assess the effects of Federal regulatory actions on State, local, and Tribal governments, and the private sector ''other than to the extent that such regulations incorporate requirements specifically set forth in law.'' For purposes of the Unfunded Mandates Reform Act, this proposed rule would not include any Federal mandate that may result in increased annual expenditures in excess of $100 million by State, local or Tribal governments in the aggregate, or by the private sector.

F. Executive Order 12988 (Civil Justice)

This proposed rule has been drafted and reviewed in accordance with Executive Order 12988, ''Civil Justice Reform,'' and will not unduly burden the Federal court system. This rule has been reviewed carefully to eliminate drafting errors and ambiguities.

G. Executive Order 13132 (Federalism)

HHS has reviewed this proposed rule in accordance with Executive Order 13132 regarding federalism, and has determined that it does not have ''federalism implications.'' The rule does not ''have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

H. Executive Order 13045 (Protection of Children From Environmental Health Risks and Safety Risks)

In accordance with Executive Order 13045, HHS has evaluated the environmental health and safety effects of this rule on children. HHS has determined that the rule would have no environmental health and safety effect on children.

I. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)

In accordance with Executive Order 13211, HHS has evaluated the effects of this proposed rule on energy supply, distribution or use, and has determined that the rule will not have a significant adverse effect.

J. Plain Writing Act of 2010

Under Public Law 111–274 (October 13, 2010), executive Departments and Agencies are required to use plain language in documents that explain to the public how to comply with a requirement the Federal Government administers or enforces. HHS has attempted to use plain language in promulgating the proposed rule consistent with the Federal Plain Writing Act guidelines.

List of Subjects in 42 CFR Part 88

Aerodigestive disorders, Appeal procedures, Health care, Mental health conditions, Musculoskeletal disorders, Respiratory and pulmonary diseases.

Text of the Rule

For the reasons discussed in the preamble, the Department of Health and Human Services proposes to amend 42 CFR part 88 as follows:

1. The authority citation for part 88 continues to read as follows:

Authority: 42 U.S.C. 300mm–300mm-61, Pub. L. 111–347, 124 Stat. 3623.

2. Amend § 88.1 by adding the definition of ''interested party'' to read as follows:

§ 88.1 Definitions.

* * * * *

Interested party means a representative of any organization representing WTC responders, a nationally recognized medical association, a WTC Health Program Clinical Center of Excellence or Data Center, a State or political subdivision, or any other interested person.

* * * * *

2. Add § 88.17 to read as follows:

§ 88.17 Addition of health conditions to the list of WTC-related health conditions

(a) Any interested party may petition the WTC Program Administrator to add a condition to the list of WTC-related health conditions.

(1) Each petition shall be in writing and sent to the WTC Program Administrator. The petition shall include:

(i) Name and contact information of the interested party;

(ii) Name and description of the condition to be added; and

(iii) Reasons for adding the condition, including the medical basis for the association between the September 11, 2001, terrorist attacks and the condition to be added.

(2) Not later than 60 days after the receipt of a petition, the WTC Program Administrator shall:

(i) Request a recommendation of the WTC Health Program Scientific/Technical Advisory Committee; or

(ii) Publish in the **Federal Register** a proposed rule to add such health condition; or

(iii) Publish in the **Federal Register** the WTC Program Administrator's determination not to publish a proposed rule and the basis for that determination; or

(iv) Publish in the **Federal Register** a determination that insufficient evidence exists to take action under paragraph (a)(2)(i) through (iii) of this section.

(b) The WTC Program Administrator may propose to add a condition to the list of WTC-related health conditions by publishing a proposed rule in the **Federal Register** and providing interested parties a period of 30 days to submit written comments. The WTC Program Administrator may extend the comment period for good cause.

(1) If the WTC Program Administrator requests a recommendation from the WTC Health Program Scientific/Technical Advisory Committee, the Advisory Committee shall submit its recommendation to the WTC Program Administrator no later than 60 days after the date of the transmission of the request or no later than a date specified by the Administrator (but not more than 180 days after the request).

(2) If the WTC Program Administrator decides to publish a proposed rule in the **Federal Register**, he or she shall do so no later than 60 days after the date of transmission of the Advisory Committee recommendation.

Dated: May 6, 2011.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

[FR Doc. 2011–16511 Filed 6–29–11; 8:45 am]

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Part VIII

Department of Transportation

Notice of Order Soliciting Community Proposals; Notice

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST 2011–0119]

Notice of Order Soliciting Community Proposals

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Notice of Order Soliciting Community Proposals (Order 2011–7–1).

SUMMARY: The Department of Transportation is soliciting proposals from communities or consortia of communities interested in receiving a grant under the Small Community Air Service Development Program. The full text of the Department's order is attached to this document. There are two mandatory requirements for filing of applications, both of which must be completed for a community's application to be deemed timely and considered by the Department. The first requirement is the submission of the community's proposal, as described below; the second requirement is the filing of SF424 through *http://www.grants.gov.*

DATES: Grant Proposals as well as the SF424 should be submitted no later than August 2, 2011.

ADDRESSES: Interested parties can submit applications and the SF424 electronically through *http://www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: Aloha Ley, Office of Aviation Analysis, 1200 New Jersey Ave, SE., W86–310, Washington, DC 20590, (202) 366–2347.

SUPPLEMENTARY INFORMATION:

Overview

By this order, the Department invites proposals from communities and/or consortia of communities interested in obtaining a Federal grant under the Small Community Air Service Development Program (Small Community Program and/or SCASDP) to address air service and airfare problems in their communities. Proposals, including all required information, must be submitted to *http://www.grants.gov* no later than 5 p.m., Eastern Daylight Time (EDT), on Tuesday, August 2, 2011. Communities are reminded to register with Grants.gov early in the application period since the mandatory Grants.gov registration process can take up to three weeks to complete. Tutorials and other guidance for completing the required registration and application procedures are available at the ''Applicant Resources'' page of Grants.gov.[1] If a community is a registered user of Grants.gov, it is the community's responsibility to verify that the Grants.gov account is valid and that the AOR (Authorized Organization Representative) is current and approved.

Required Steps

- Determine eligibility (see Page 4);
- Register with *http://www.grants.gov;*
- Submit an Application for Federal Domestic Assistance (SF424);
- Submit a cover sheet including all required information (see *Appendix B*);
- Submit a completed ''Summary Information'' schedule (see *Appendix C*);
- Submit a detailed proposal which meets all required criteria (see *Appendix D*);
- Attach any letters of support to the proposal, which should be addressed to Aloha Ley, Associate Director, Small Community Program; and,
- Provide separate submission of confidential material, if requested. (see *Appendix E*)

An application will *not* be deemed complete and will be ineligible for a grant award until and unless all required materials, including SF424, have been submitted through *http://www.grants.gov* by the 5 p.m. EDT August 2, 2011, deadline.

This order is organized into the following sections:

I. Background

The Small Community Program was established under the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR–21), Pubic Law 106–181, and reauthorized under the Vision 100–Century of Aviation Reauthorization Act, Public Law 108–176 (Vision 100). The program is designed to provide financial assistance to small communities to help them enhance their air service. The Department provides this assistance in the form of financial grants that are disbursed on a reimbursable basis.[2]

Authorized grant projects may include activities that extend over a multi-year period under a single grant award; however, because there is a priority established by statute for communities and consortia that show that they can use the assistance ''in a timely fashion,'' applicants are advised to consider that criterion in developing their proposals.

Current funding and limitations

The Small Community Program is authorized to receive appropriations under 49 U.S.C. 41743(e)(2), as amended. Appropriations are provided for the program pursuant to Section 1104 of the FY 2011 Full-Year Continuing Appropriations Act (Pub. L. 112–10 (extending the FY 2010 Consolidated Appropriations Act (Pub. L. 111–117)). The Department has up to $15 million available for FY 2011 grant awards to carry out the Small Community Program.

The program is limited to a maximum of 40 grant awards, with a maximum of four grants per State, in each year the program is funded. There are no limits on the amounts of individual awards, and the amounts awarded will vary depending upon the features and merits of the proposals selected. In past years, the Department's individual grant sizes have ranged from $20,000 to nearly $1.6 million.

II. Eligibility Information

Registration With Grants.Gov

Communities not previously registered are encouraged to register with *http://www.grants.gov* early during the application period because the registration and SF424 application process required by *http://www.grants.gov* can take up to three weeks to complete. A community may file its proposal anytime after the initial registration process has been completed on *http://www.grants.gov* as long as the entire application is filed by August 2, 2011.

Communities are encouraged to contact the Grants.gov help desk for any technical assistance in filing their applications. The Grants.gov ''Applicant Resources'' page (*http://www07.grants.gov/applicants/app_help_reso.jsp*) provides instructions and guidance on completing the registration and application processes. Further, grant proposals must be submitted as an attachment to the SF424.

Eligibility Requirements

When selecting applicants to participate in the Small Community

[1] *See http://www07.grants.gov/applicants/app_help_reso.jsp.*

[2] For detailed background on the Small Community Program, see our Web site at: *http://ostpxweb.dot.gov/aviation/X-50%20Role_files/smallcommunity.htm.*

Program, the Department is statutorily required to apply the following eligibility criteria: [3]

1. As of calendar year 1997, the airport serving the community was not larger than a small hub airport, and it has insufficient air carrier service or unreasonably high air fares,

2. The airport serving the community presents characteristics, such as geographic diversity or unique circumstances that demonstrate the need for, and feasibility of, grant assistance from the Small Community Program;

3. An applicant may not receive an additional grant to support the same project from a previous grant;

4. An applicant may not receive an additional grant, prior to the completion of its previous grant;

5. No more than 4 communities or consortia of communities, or a combination thereof, from the same State may be selected to participate in the program in any fiscal year; and

6. No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which the funds are appropriated.

In assessing whether a previous grantee's current proposal represents a new project, we compare the goals and objectives of the earlier grant, including the key components of the means by which those goals and objectives were to be achieved, to the current proposal. For example, if a community received an earlier grant to support a revenue guarantee for service to a particular destination or direction, a new application for another revenue guarantee for the same service would be disqualified under Section 41743(c), even if the revenue guarantee were structured differently or the type of carrier were different. However, we do not read Section 41743(c) to disqualify a new application for service to a new destination or direction using a revenue guarantee, or for general marketing of the airport and the various services it offers. We recognize that not all revenue guarantees, marketing agreements, equipment purchases, *etc.* are of the same nature, and that if a subsequent proposal incorporates different goals or significantly different components, it may be sufficiently different to constitute a new project under Section 41743(c).

The Department is authorized to award grants to communities that seek to provide assistance to:

- An air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years;
- An underserved airport to obtain service to and from the underserved airport; and/or
- An underserved airport to implement such other measures as the Secretary, in consultation with such airport, considers appropriate to improve air service both in terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.[4]

Priority Considerations

Priority factors considered. The law directs the Department to give priority consideration to those communities or consortia where: [5]

- Air fares are higher than the national average air fares for all communities;
- The community or consortium will provide a portion of the cost of the activity from local sources other than airport revenue sources;
- The community or consortium has established or will establish a public-private partnership to facilitate air carrier service to the public;
- The assistance will provide material benefits to a broad segment of the traveling public, including business, educational institutions, and other enterprises, whose access to the national air transportation system is limited; and
- The assistance will be used in a timely manner.

Additional factors considered. Applications will be evaluated against the priority considerations listed above. Our experience has been that more applications are received than can be funded under the Small Community Program. Consequently, consistent with the criteria stated above, the selection process will take into consideration such additional factors as:

- The geographic location of each applicant, including the community's proximity to larger centers of air service and low-fare service alternatives;
- The proposed Federal grant amount requested compared with the local share offered;
- Whether the applicant community has previously received a grant award under this program and, if so, whether its application includes an explanation of how the community's proposed project differs from its previously funded project;
- The community's demonstrated commitment to and participation in the proposed grant project;
- The extent to which the applicant's proposed solution(s) to solving the problem(s) is new or innovative;
- The population and business activity as well as the relative size of each applicant community;
- The community's existing level of air service and whether that service has been increasing or decreasing;
- Whether the community's proposal, if successfully implemented, could serve as a working model for other communities;
- The grant amount requested compared with total funds available for all communities;
- Whether the community has a viable plan to use the funds in a timely manner;
- The uniqueness of an applicant's claimed problems and whether the proposed project clearly addresses the applicant's claimed problems; and
- Whether the community's proximity to an existing or prior grant recipient could adversely affect either its proposal or the project undertaken by the other recipient.

Full community participation is a key goal of this program as demonstrated by the statute's focus on local contributions and active participation in the project. Therefore, applications that demonstrate broad community support will be more attractive. For example, communities providing proportionately higher levels of cash contributions from other than airport revenues will have more attractive proposals. Communities that provide multiple levels of contributions (state, local, airport, cash and in-kind contributions) also will have more attractive proposals. Similarly, communities that demonstrate participation in the development and execution of the proposed air service project will enhance the attractiveness of their proposals. In this regard, the Department welcomes letters of intent from airlines on behalf of community proposals that are specifically intended to enlist new or expanded air carrier presence. Such letters will be accorded greater weight when authorized by airline planning departments.

Proposals that offer innovative solutions to the transportation issues facing the community will be more attractive. Small communities have faced many problems retaining and improving their air services and in coping with air fares that are higher than typical for larger communities. Therefore, proposals that offer new, creative approaches to addressing these problems, to the extent that they are

[3] 49 U.S.C. 41743(c).

[4] 49 U.S.C. 41743(d).

[5] 49 U.S.C. 41743(c)(5).

reasonable, will have their attractiveness enhanced. Proposals that provide a well-defined plan, a reasonable timetable for use of the grant funds, and a plan for continuation and/or monitoring of the project after the grant expires also will have greater attractiveness.

Additional Criteria and Grant Limitations

Communities without existing air service. Communities that do not currently have commercial air service are also eligible, but air service providers must have met or be able to meet in a reasonable period all Departmental requirements for air service certification, including safety and economic authorities.

Essential Air Service communities. Small communities that meet the basic criteria and currently receive subsidized air service under the Essential Air Service (EAS) program are eligible to apply for funds under the Small Community Program. However, *grant awards to EAS-subsidized communities are limited to marketing or promotion projects that support existing or newly subsidized EAS.* Grant funds will *not* be authorized for EAS-subsidized communities to support any *new* competing air service. Furthermore, no funds will be authorized to support additional flights by EAS carriers or changes to those carriers' existing schedules. These restrictions are necessary to avoid conflicts with the EAS program.

Consortium applications. The statute permits individual communities and consortia of communities to apply for grant awards under this program. In some instances in the past, several communities in a State have filed a single application as a ''consortium,'' but in effect the application was a collection of individual community requests involving different projects. This is not a consortium. An application from a consortium of communities must be one that seeks to facilitate the efforts of the communities working together toward a joint grant project. In other words, the application must set forth one grant project, with one joint objective, and establish one entity to ensure that the joint objective is accomplished according to the terms of a grant agreement. For example, several communities surrounding an airport may apply together to improve air services at that airport, with a joint objective of securing new or additional service to that airport. Or, surrounding airports may apply together in support of a regional plan to lower fares or reverse a decline in traffic.

Prior grant recipients. Communities or members of a consortia that were awarded grants in previous years and want to apply for a grant this year should be aware that they are precluded from seeking new funds for projects for which they have already received an award under the Small Community Program.

In its application, a community that is a previous grant recipient should compare and contrast its proposed project with its previously funded one(s) to demonstrate why its latest proposal represents a new project. Communities should also note that in prior years of the program, interest in participation exceeded the funds available in any one year. For this reason, the fact that a community has already received one or more grants will be a consideration when comparing its new proposal with those of other applicant communities.

Concurrent applications. A community or member of a consortium may participate in the program a subsequent time only after its participation in a prior grant has terminated. 49 U.S.C. 41743(c)(4). Simply stated, a community can have only one Small Community Program grant at any time. If a grant applicant is applying for a subsequent grant and its current grant has not yet expired, it must notify the Department of its intent to terminate the current grant prior to entering into the new grant. In addition, for grant applicants that are members of a consortia grant, permission must be granted from both the grant sponsor and the Department to withdraw from the current grant prior to being eligible to receive a subsequent grant.

Multiple Applications. The Department requests that communities file only one application for a grant. In the past, some communities have filed both individual applications and applications as part of a consortium. In many cases these applications have involved the same project at the same or different funding levels. We will not consider the stand-alone application if a community is also submitting a largely identical request as part of a consortium. To the extent that a community files separately and as part of a consortium for complementary projects—for example, one for a revenue guarantee and one for marketing—we will consider such proposals. However, communities should be aware that they can receive only one grant, either the stand-alone grant or as a member of a consortium, because no community can have concurrent grants.

Market analysis and a complementary marketing commitment. A thorough understanding of the target market is essential for the ultimate success of new or expanded air service. Likewise, the chances that such a service will become self-sustaining are enhanced when its implementation is supported by a well-designed marketing campaign. For these reasons, communities requesting funds for a revenue guarantee/subsidy/financial incentive are encouraged to include in their proposals an in-depth analysis evidencing close familiarity with their target markets. Such communities also are encouraged to designate in their proposals a portion of the project funds (Federal, local or in-kind) for the development and implementation of a marketing plan in support of the service sought.

Subsidies for a carrier to compete against an incumbent. The Department is reluctant to subsidize one carrier but not others in a competitive market. For this reason, communities that propose to use the grant funds for service in a city-pair market that is already served by a carrier must explain in detail why the existing service is insufficient or unsatisfactory, or provide other compelling information to support such proposals. This information is necessary for the Department to consider the competitive implications of giving financial or other tangible incentives for one carrier that the other carrier is not receiving.

Cost Sharing and Local Contributions Are Important Factors. The statute does not require communities to contribute toward a grant project, but those communities that contribute from local sources other than airport revenues are accorded priority consideration. One core objective of the Small Community Program is to promote community involvement in addressing air service/air fare issues through public/private partnerships. As a financial stakeholder in the process, the community gains greater control over the type, quality, and success of the air service initiatives that will best meet its needs, and demonstrates a greater commitment towards achieving the stated goals. The Department has historically received many more applications than can be accommodated and nearly all of those applications have proposed a community financial contribution to the project. Thus, proposals that propose a community financial contribution will be given priority consideration.

Applicant communities should be aware that, if awarded a grant, the Department will not reimburse the community for pre-award expenses such as the cost of preparing the grant application or for any expenses incurred prior to the community executing a

grant agreement with the Department. In addition, ten percent of the grant funds will be withheld until the Department receives the final report on the grant project. See ''Award Administration Information,'' below.

Types of contributions. Contributions should represent a *new* financial commitment or *new* financial resources devoted to attracting new or improved service, or addressing specific high-fare or other service issues, such as improving patronage of existing service at the airport. Contributions from already-existing programs or projects (*e.g.,* designating a portion of an airport's existing annual marketing budget to the project) are considered less favorably than contributions for new and innovative programs or projects. For those communities that propose to contribute to the grant project, that contribution can be in the following forms:

Cash from non-airport revenues. A cash contribution can include funds from the State, the County or the local government, and/or from local businesses, or other private organizations in the community. Contributions that are comprised of intangible non-cash items, such as the ''value'' of donated advertising, are considered ''in-kind'' contributions (see further discussion below).

Cash from airport revenues. This includes contributions from funds generated by airport operations. Airport revenues may not be used for revenue guarantees to airlines.[6] Community proposals that include local contributions based on airport revenues do not receive priority consideration for selection.

In-kind contributions from the airport. This can include such items as waivers of landing fees, terminal rents, fuel fees, and/or vehicle parking fees.

In-kind contributions from the community. This can include such items as donated advertising from media outlets, catering services for inaugural events, or in-kind trading, such as advertising in exchange for free air travel. Travel banks and travel commitments/pledges are considered to be in-kind contributions,[7] as are reduced fares offered by airlines.

Cash vs. in-kind contributions. Communities that include local contributions made in cash are given priority consideration for selection.

Financial commitments must be fulfilled. Applicant communities should note that, as part of the grant agreement between the Department and the community, the community has legally committed itself to fulfilling its proposed financial contribution to the project and that its failure to meet this commitment could lead the Department to terminate the grant. Community participation in all aspects of the proposal, including the financial aspects, is critical to the success of the authorized project initiative. Furthermore, communities cannot propose a certain level of cash contribution from non-airport sources, and subsequent to being awarded a grant, seek to substitute or replace that contribution with either ''in-kind'' contributions or contributions from airport revenues, or both. Given the statute's priority for contributions from *non-airport* sources and the competitive nature of the selection process, a community's grant award could be reduced or terminated altogether if it is unable to replace the committed funds from non-airport revenue sources.

Payment Reimbursement Receipts: The Small Community Program is a reimbursable program; therefore, communities are required to make expenditures in full for project implementation under the program prior to seeking reimbursement from the Department. Reimbursement rates are calculated as a percentage of the total Federal funds requested divided by the Federal funds plus the local cash contribution (which is not refundable). Payments/expenditures in forms other than cash (*e.g.* in-kind) are not reimbursable. For example, if a community requests $500,000 in Federal funding and provides $100,000 in local contribution the reimbursement rate would be 83.33 percent: ((500,000)/(500,000 + 100,000)) = 83.33.

III. Types of Projects

The statute is very general about the types of projects that can be authorized so that communities are provided flexibility in addressing their particular air service and airfare issues. Because circumstances may differ among communities, applicants have some latitude in identifying their own objectives and developing strategies for accomplishing them.

The major objective of the Small Community Program is to help communities secure enhancements that will be responsive to their air transportation/air fare needs on a long-term basis after the financial support of the grant has ended. There are many ways that a community might enhance its current air service or attract new service, such as:

- Promoting awareness among residents of locally available service;
- Attracting a new carrier through revenue guarantees or operating cost offsets;
- Attracting new forms of service, such as on-demand air taxi service;
- Offering an incumbent carrier financial or other incentives to lower its fares, increase its frequencies, add new routes, or deploy more suitable aircraft, including upgrading its equipment from turboprops to regional jets;
- Combining traffic support from surrounding communities with regionalized service through one airport; or
- Providing local ground transportation service to improve access to air service to the community and the surrounding area.[8]

The SCASDP program has already supported numerous standard revenue guarantee and marketing projects; there is an increased prospect for favorable consideration if the proposal offers distinctive or creative aspects or features that have potential for establishing new and better practices. At the same time, proposals must *not* be general, vague, or unsupported. The more highly defined and focused the proposal, the more competitive it will be, particularly in light of the priority consideration afforded by the statute to those applicants that can use the funds in a timely manner. 49 U.S.C. 41743(c)(5)(E).

Additional Information

There is no set format that must be used in submitting grant proposals. At a minimum, however, a proposal must provide the following information:

- *A description of the community's existing air service,* including the carrier(s) providing service, service

[6] 49 U.S.C. 47107, 47133.

[7] A travel ''bank'' involves the actual deposit of funds from participating parties (*e.g.,* businesses, individuals) into a designated bank account for the purpose of purchasing air travel on the selected airline, with defined procedures for the subsequent use or withdrawal of those funds under an agreement with the airline. Often, however, what communities refer to as a travel ''bank'' in reality involves travel ''pledges'' from businesses in the community without any collection of funds or formal procedures for use of the funds. As with other types of in-kind contributions, the Department views travel banks and pledges included in grant proposals as an indicator of local community support.

[8] These examples are illustrative only and are not meant as a list of projects favored by the Department. Interested communities can view actual proposals submitted in prior years. Go to *http://www.regulations.gov* and, under ''Search,'' enter one of the following depending on the desired filing year: DOT–OST–2002–11590, DOT–OST–2003–15065, DOT–OST–2004–17343, DOT–OST–2005–20127, DOT–OST–2006–23671; DOT–OST–2007–27370, DOT–OST–2008–0100, DOT–OST–2009–0149, and DOT–OST–2010–0124.

frequency, nonstop destinations offered, fares, and equipment types.

• *A synopsis of the community's historical service,* including destinations, traffic levels, service providers, and any extenuating factors that might have affected traffic in the past or that can be expected to influence service needs in the near to intermediate term.

• *A description of the community's air service development efforts over the past five years and the results of those efforts.* The community should describe past air service development efforts and their results in its grant proposal. The description should include marketing and promotional efforts of airport services as well as efforts to recruit additional or improved air service and airfare initiatives.

• *A description of the community's air service needs or deficiencies.* A community should submit any information about (1) major origin/destination markets that are not now served or are not served adequately, and (2) fare levels that the community deems relevant to consideration of its grant request, including market analyses or studies demonstrating an understanding of local air service needs.

• *A strategic plan for meeting those needs under the Small Community Program,* including the community's specific project goal(s) and detailed plan for attaining such goal(s). Plans should:

○ Clearly identify the target audience of each component of the proposed transportation initiative, including all advertising and promotional efforts.

○ Set forth a realistic timetable for implementation of the grant project including a timeline chart. Because the statute includes timely use of the grant funds as a priority consideration, a community must have a well-developed project plan and a detailed timetable for implementing that plan. In establishing the timetable, however, the community should be realistic about its ability to meet its project deadlines.[9]

○ For proposals involving new or improved service, explain how the service will become self-sufficient. Under the statute, a community *cannot* seek grant funding in subsequent years in support of the same project. Moreover, in developing a proposal, it is important that a community seriously consider the scale of its proposed project and the timetable for achieving the stated goals. To the extent that a proposed project is dependent upon or relevant to the completion of other Federally funded capital improvement projects, the community should provide a description of, and the construction time-line for, those projects, keeping in mind the statutory requirement to use Small Community Program funding in a timely manner.

○ Fully and clearly outline the goals and objectives of the project; *e.g.,* ''to broaden the awareness by residents in the Tri-County area of the various services provided by passenger carriers at the Tri-County airport,'' or ''to obtain new and affordable service to a hub airport in a direction where there is no such service.'' When an application is selected, these goals and objectives will be incorporated into the grant agreement and define its basic project scope. Once an agreement is signed, if circumstances change and an amendment is sought to allow for different activities or a different approach, the Department will look to whether the change being sought is consistent with those fundamental project goals and objectives. Proposed changes that would alter those fundamental goals and objectives cannot be authorized, because doing so would undermine the competitive nature of the selection process. Applicants are also encouraged to include in their proposals alternative or back-up strategies for achieving their desired goals and objectives. By incorporating such information into the grant agreement, desired changes may be permitted.

○ Include metrics by which progress towards goals will be measured, the source(s) of those data, and how the data will be analyzed.

○ If the applicant received a Small Community Program grant in the past, explain how its proposed project differs from its earlier one by comparing and contrasting project goals, objectives and methods of achieving them.

• *A description of any public-private partnership that will participate in the project.* Full community involvement is a key aspect of the Small Community Program. The statute gives priority to those communities that already have established, or will establish, a public-private partnership to facilitate air service to the public. The proposal should fully describe the public-private partnership that will participate in the community's proposal and how the partnership will *actively* participate in the implementation of the proposed project. In addition, applicants should identify each member of the partnership, the role that each will play, and the specific responsibilities of each member in project implementation. If the application does not include specific information on the partnership participation in the project, the Department will not be able to evaluate how well a community has met this consideration, and the applicant will *not* be deemed to have met this priority consideration in the Department's evaluation of the community's proposal.

• *A detailed description of the funding necessary for implementation of the community's project, including the Federal and non-Federal contributions.* Proposals should clearly identify the level of Federal funding sought. They should also clearly identify the community's cash contributions to the proposed project, ''in-kind'' contributions from the airport, and ''in-kind'' contributions from the community. Cash contributions from airport revenues should be identified separately from cash contributions from other community sources. Similarly, cash contributions from the State and/or local government should be separately identified and described.

• *An explanation of how the community will ensure that its own funding contribution is spent in the manner proposed.*

• *Descriptions of how the community will monitor the progress of the grant project* and identification of a list of critical milestones to be met during the life of the grant, including the need to modify or discontinue funding if the community cannot achieve such milestones. This is an important component of the community's proposal and serves to demonstrate the thoroughness of the community's planning of the proposed grant project.

• *A description of how the community plans to continue with the project if it is not self-sustaining after the grant award expires.* A particular goal of the Small Community Program is to provide long-term, self-sustaining improvements to air service for small communities. A community cannot seek further grant funding in support of the same project. 49 U.S.C. 41743(c)(4). It is possible that new or improved service at a community will be well on its way to becoming a self-sustaining service, but it may not have reached that goal before the grant expires. Similarly, it is possible that extensive marketing and promotional efforts may be in progress, but not have been completed at the end of the grant period and will require

[9] The projected timetable will be an integral part of the grant agreements between the selected communities and the Department. Therefore, there is no advantage to a community in proposing an aggressive timetable that cannot be met, and there may be disadvantages if the community finds that it cannot meet its timetable or if its timeline is deemed unrealistic. Communities should carefully consider all factors affecting implementation of their projects and develop realistic timeframes for achieving those objectives.

continued support.[10] Therefore, in developing its proposal, the community should carefully consider and describe in detail its plans for providing any necessary continued financial support for the project after the grant funding is no longer available. This aspect of the application reflects the community's commitment to the grant project and is an important component to the Department's consideration of the community's proposal for selection for a grant award.

• *Designation of a legal sponsor responsible for administering the program.* The legal sponsor of the grant project *must* be a government entity. If the applicant is a public-private partnership, a public government member of the organization must be identified as the community's sponsor to receive program reimbursements. In this regard, communities can designate only a single government entity as the legal sponsor, even if it is applying as a consortium that consists of two or more local government entities. Private organizations cannot be designated as the legal sponsor of a grant under the Small Community Program.[11]

Air Service Development Zone Designation

The statute authorizing the Small Community Program also provides that the Department will designate one of the grant recipients as an Air Service Development Zone. The purpose of the designation is to provide communities interested in attracting business to the area surrounding the airport and/or developing land-use options for the area to work with the Department on means to achieve those goals. The Department will assist the designated community in establishing contacts with and obtaining advice and assistance from appropriate government agencies, including the Department of Commerce as well as other offices within the Department of Transportation, and in identifying other pertinent resources that may aid the community in its efforts to attract businesses and to formulate land-use options. However, the community receiving the designation will be responsible for developing, implementing, and managing activities related to the air service development zone initiative. Only communities that are interested in these objectives and have a plan to accomplish them should compete for the available designation. There are no additional funds associated with this designation, and applying for the designation will provide no special benefit or preference to a community in receiving a grant award under the Small Community Program.

Grant applicants interested in selection for the Air Service Development Zone designation must include in their applications a separate section, titled, *Support for Air Service Development Zone Designation.* That section should include:

○ Detailed information regarding the property and facilities available for development such as an existing airpark or land for such an airpark;

○ The other modes of transportation that would be available to support additional economic development, such as rail, road, and/or water access;

○ Information concerning historic, existing, and any future business activity in the area that would support further development;

○ Demographic information concerning the community and its environs relevant to the developmental efforts, including population, employment, and per capita income data; and

○ Any other information that the community believes is relevant to its plans to enhance air service development.

The community should provide as detailed a plan as possible, including what goals it expects to achieve from the air service development zone designation and the types of activities on which it would like to work with the Department in achieving those goals. The community should also indicate whether further local government approvals are required in order to implement the proposed activities.

IV. Award Administration Information

The grant awards will be made as promptly as possible so that selected communities can complete the grant agreement process and proceed to implement their plans. Given the competitive nature of the grant process, the Department will not meet with grant applicants with respect to their grant proposals.

The Department will announce its grant selections via a selection order, which will be served on each grant recipient, all other applicants, and all parties served with this solicitation order. The selection order will also be on the Department's Small Community Program Web page.

Grant agreement. Communities awarded grants are required to execute a grant agreement with the Department *before* they begin to expend funds under the grant award. Grant funds will be provided on a *reimbursable basis* only, with reimbursements made only for expenses incurred and billed during the period that the grant agreement is in effect and at the appropriate percentage rate.[12] Applicants should not assume they have received a grant, nor should they obligate or expend local funds prior to receiving and fully executing a grant agreement with the Department. Expenditures made prior to the execution of a grant agreement, including costs associated with preparation of the grant application, will *not* be reimbursed. Moreover, there are numerous assurances that grant recipients must sign and honor when Federal funds are awarded. All communities receiving a grant under the Small Community Program will be required to accept the responsibilities of these assurances and to execute such the assurances when they execute their grant agreements. Copies of the applicable assurances are available for review on the Department's Web page at *http://ostpxweb.dot.gov/aviation/X-50%20Role_files/smallcommunity.htm* (click on ''SCASDP Grant Assurances'').

Grantee reports. The grant agreement between the Department and each selected community will require the submission of quarterly reports on the progress the community has made during the previous quarter in implementing its grant project. In addition, the grant agreement will require the submission, on a quarterly or other time-specific basis, of other materials relevant to the grant project, such as copies of advertising and promotional material and copies of contracts with consultants and service providers. In addition, each community will be required to submit a final report on its project to the Department, and 10 percent of the grant funds will not be reimbursed to the community until such final report is received.

Additional information on award administration for selected communities will be provided in the grant agreement.

Grant amendments. A grantee may wish to amend its agreement with the Department in the event of a change in circumstances after the date the agreement is executed. Typically, amendments involve an extension to the time period for completing the grant or a change in the types of activities authorized for reimbursement under the goals and objectives (''project scope'') of

[10] Project implementation costs are reimbursable from grant funds only for services or property delivered during the grant term.

[11] The community has the responsibility to ensure that the recipient of any funding has the legal authority under State and local laws to carry out all aspects of the grant.

[12] The percentage is determined by: (SCASDP Grant Amount) ÷ (SCASDP Grant Amount + Local Cash Contribution + State Cash Contribution, if applicable).

the grant agreement. Grantees are cautioned, however, that the Department cannot authorize amendments that are incompatible with the scope of the agreement. For example, a grant awarded solely for the purpose of developing an airport marketing plan cannot be amended to permit subsidization of an air carrier's startup costs, or a grant awarded solely for the purpose of attracting low-fare service cannot be amended to permit it to attract service from a legacy carrier, since the latter, in each example, was never contemplated by the original agreement.

Applicants are advised to obtain firm assurances from air carriers proposing to offer new air service if a grant is awarded. Many grants have been awarded for the purpose of subsidizing new or additional air service for a small community, with the goal of that service becoming self-sustaining by the end of the subsidy period. In virtually all cases, the community seeking the grant funds received expressions of interest from one or more air carriers. In some instances, these expressions of interest failed to materialize and the community was left without any immediate prospects, at which time it asked for a grant extension to allow more time to pursue other carriers. Because the Department is charged by law to consider timely use of funds when selecting grant recipients, the Department will grant an extension only when the community can provide strong evidence of a firm commitment on the part of an air carrier to deliver the desired service.

To ensure understanding, grantees contemplating amendments to their agreements are urged to discuss their situations with the Small Community Program staff before requesting a formal amendment.

This order is issued under authority delegated in 49 CFR 1.56a(f).

Accordingly,

1. Community proposals for funding under the Small Community Air Service Development Program should be submitted via *http://www.grants.gov* as an attachment to the SF424 no later than August 2, 2011; and

2. This order will be published in the **Federal Register** and also will be served on the Conference of Mayors, the National League of Cities, the National Governors Association, the National Association of State Aviation Officials (NASAO), County Executives of America, the American Association of Airport Executives (AAAE), and the Airports Council International-North America (ACI), and posted on *http://www.grants.gov.*

Issued in Washington, DC, on June 28, 2011.

Susan L. Kurland,

Assistant Secretary for Aviation and International Affairs.

An electronic version of this document is available on the World Wide Web at *http://www.regulations.gov.*

Small Community Air Service Development Program

United States Code Annotated
Title 49. Transportation
Subtitle VII. Aviation Programs
Part A. Air Commerce and Safety
Subpart II. Economic Regulation
Chapter 417. Operations of Carriers
Subchapter II. Small Community Air Service

➡ § 41743. Airports not receiving sufficient service

(a) *Small community air service development program.*—The Secretary of Transportation shall establish a program that meets the requirements of this section for improving air carrier service to airports not receiving sufficient air carrier service.

(b) *Application required.*—In order to participate in the program established under subsection (a), a community or consortium of communities shall submit an application to the Secretary in such form, at such time, and containing such information as the Secretary may require, including—

(1) An assessment of the need of the community or consortium for access, or improved access, to the national air transportation system; and

(2) An analysis of the application of the criteria in subsection (c) to that community or consortium.

(c) *Criteria for participation.*—In selecting communities, or consortia of communities, for participation in the program established under subsection (a), the Secretary shall apply the following criteria:

(1) *Size.*—For calendar year 1997, the airport serving the community or consortium was not larger than a small hub airport, and—

(A) Had insufficient air carrier service; or

(B) Had unreasonably high air fares.

(2) *Characteristics.*—The airport presents characteristics, such as geographic diversity or unique circumstances, that will demonstrate the need for, and feasibility of, the program established under subsection (a).

(3) *State limit.*—Not more than 4 communities or consortia of communities, or a combination thereof, from the same State may be selected to participate in the program in any fiscal year.

(4) *Overall limit.*—No more than 40 communities or consortia of communities, or a combination thereof, may be selected to participate in the program in each year for which funds are appropriated for the program.

No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project.

(5) *Priorities.*—The Secretary shall give priority to communities or consortia of communities where—

(A) Air fares are higher than the average air fares for all communities;

(B) The community or consortium will provide a portion of the cost of the activity to be assisted under the program from local sources other than airport revenues;

(C) The community or consortium has established, or will establish, a public-private partnership to facilitate air carrier service to the public;

(D) The assistance will provide material benefits to a broad segment of the traveling public, including business, educational institutions, and other enterprises, whose access to the national air transportation system is limited; and

(E) The assistance will be used in a timely fashion.

(d) *Types of assistance.*—The Secretary may use amounts made available under this section—

(1) To provide assistance to an air carrier to subsidize service to and from an underserved airport for a period not to exceed 3 years;

(2) To provide assistance to an underserved airport to obtain service to and from the underserved airport; and

(3) To provide assistance to an underserved airport to implement such other measures as the Secretary, in consultation with such airport, considers appropriate to improve air service both in terms of the cost of such service to consumers and the availability of such service, including improving air service through marketing and promotion of air service and enhanced utilization of airport facilities.

(e) *Authority to make agreements.*—

(1) *In general.*—The Secretary may make agreements to provide assistance under this section.

(2) *Authorization of appropriations.*—There is authorized to be appropriated to the Secretary $20,000,000 for fiscal year 2001, $27,500,000 for each of fiscal years 2002 and 2003, and $35,000,000 for each of fiscal years 2004 through 2008 to carry out this section. Such sums shall remain available until expended.

(f) *Additional action.*—Under the program established under subsection (a), the Secretary shall work with air carriers providing service to participating communities and major air carriers (as defined in section 41716(a)(2)) serving large hub airports to facilitate joint-fare arrangements consistent with normal industry practice.

(g) *Designation of responsible official.*—The Secretary shall designate an employee of the Department of Transportation—

(1) To function as a facilitator between small communities and air carriers;

(2) To carry out this section;

(3) To ensure that the Bureau of Transportation Statistics collects data on passenger information to assess the service needs of small communities;

(4) To work with and coordinate efforts with other Federal, State, and local agencies

to increase the viability of service to small communities and the creation of aviation development zones; and

(5) To provide policy recommendations to the Secretary and Congress that will ensure that small communities have access to quality, affordable air transportation services.

(h) *Air Service Development Zone.*—The Secretary shall designate an airport in the program as an Air Service Development Zone and work with the community or consortium on means to attract business to the area surrounding the airport, to develop land use options for the area, and provide data, working with the Department of Commerce and other agencies.

Cover Page

The cover page for all applications should bear the title ''Proposal Under the Small Community Air Service Development Program, Docket DOT–OST–2011–0119'' and should include:

(1) The name of the community or consortium of communities applying for the grant;

(2) The legal sponsor and its Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number, including + 4; Employee Identification Number (EIN) or Tax ID; and,

(3) The 2-digit Congressional district code applicable to the sponsoring organization and, if a consortium, to each participating community.

BILLING CODE 4910–9X–P

APPENDIX C
Page 1

SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM

DOCKET DOT-OST-20110119

SUMMARY INFORMATION

All applicants must submit this information with their proposal, along with a completed form SF424 on *http://www.grants.gov*.

A. APPLICANT INFORMATION: (CHECK ALL THAT APPLY)

☐ **Not a Consortium** ☐ **Interstate Consortium** ☐ **Intrastate Consortium**

☐ **Community now receives EAS subsidy**

☐ **Community (or Consortium member) previously received a Small Community Grant**

If previous recipient: Date of grant: _____ Expiration date of grant: _____

B. PUBLIC/PRIVATE PARTNERSHIPS: (LIST ORGANIZATION NAMES)

PUBLIC	PRIVATE
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.

APPENDIX C
Page 2

C. PROJECT PROPOSAL: (CHECK ALL THAT APPLY)

☐ Marketing	☐ Upgrade Aircraft	☐ New Route
☐ Travel Bank	☐ Service Restoration	☐ Subsidy
☐ Surface Transportation	☐ Regional Service	☐ Revenue Guarantee
☐ Launch New Carrier	☐ Start-up Cost Offset	☐ First Service
☐ Study	☐ Secure Additional Service	☐ Other (explain below)

D. EXISTING LANDING AIDS AT LOCAL AIRPORT:

☐ Full ILS ☐ Outer/Middle Marker ☐ Published Instrument Approach

☐ Localizer ☐ Other (specify)

E. PROJECT COST: DO NOT ENTER TEXT IN SHADED AREA

LINE	DESCRIPTION		SUB TOTAL	TOTAL AMOUNT
1	Federal amount requested			
2	State cash financial contribution			
	Local cash financial contribution			
	3a	Airport cash funds		
	3b	Non-airport cash funds		
3	Total local cash funds (***3a*** + ***3b***)			
4	TOTAL CASH FUNDING (***1***+***2***+***3***)			
	In-Kind contribution			

	5a	Airport In-Kind contribution**		
	5b	Other In-Kind contribution**		
5	TOTAL IN-KIND CONTRIBUTION (***7a*** + ***7b***)			
6	TOTAL PROJECT COST (***4***+***8***)			

F. IN-KIND CONTRIBUTIONS**

For funds in lines 7a (Airport In-Kind contribution) and 7b (Other In-Kind contribution), please describe the source(s) of fund(s) for each.

F. IS THIS APPLICATION SUBJECT TO REVIEW BY STATE UNDER EXECUTIVE ORDER 12372 PROCESS?

☐ a. This application was made available to the State under the Executive Order 12372 Process for review on (date) _____.

☐ b. Program is subject to E.O. 12372, but has not been selected by the State for review.

☐ c. Program is not covered by E.O. 12372.

G. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? (IF "YES", PROVIDE EXPLANATION)

☐ No ☐ Yes (explain)

_____

_____

APPLICATION CHECKLIST

INCLUDED?	ITEM
	For Immediate Action
	Determine Eligibility(see Pages 3 & 4)
	New Grants.gov users must register with ***www.grants.gov*****.** Existing Grants.gov users *must verify existing Grants.gov account has not expired and the Authorized Organization Representative(AOR) is current*
	No Later than 5:00 pm EDT, August 2, 2011
	Communities with active SCASDP grants: notify DOT/X50 of intent to terminate existing grant in order to be eligible for selection in FY2011
	Complete Application for Federal Domestic Assistance (SF424) via ***www.grants.gov***
	Prepare Cover Sheet (see Appendix B)
	Prepare Summary Information (see Appendix C)
	Prepare proposal, to include:
	• A description of the community's existing air service
	• A synopsis of the community's historical service
	• A description of the community's air service development efforts over the past five years and the results of those efforts

	• A description of the community's air service needs or deficiencies
	• A strategic plan for meeting those needs under the Small Community Program, including the community's specific project goal(s), detailed plan for measuring and attaining such goal(s), and a timeline chart.
	• A description of any public-private partnership that will participate in the project
	• A detailed description of the funding necessary for implementation of the community's project, including the federal and non-federal contributions
	• An explanation of how the community will ensure that its own funding contribution is spent in the manner proposed
	• Descriptions of how the community will monitor the progress of the grant project and the identity of critical milestones to be met during the life of the grant, including the need to modify or discontinue funding if identified milestones cannot be achieved
	• A description of how the community plans to continue with the project if it is not self-sustaining after the grant award expires
	• Designation of a legal sponsor responsible for administering the program
	• Letters of support (community/Congressional)
	• Letters of intent by an air carrier (where applicable)
	• Submit motion for confidential treatment (where applicable)

Submission Checklist	
	Attach cover sheet to completed SF424 via ***www.grants.gov***
	Attach summary information schedule to completed SF424 via ***www.grants.gov***
	Attach proposal to completed SF424 via ***www.grants.gov***

BILLING CODE 4910–9X–C

Confidential Commercial Information

Applicants will be able to provide certain confidential business information relevant to their proposals on a confidential basis. Under the Department's Freedom of Information Act regulations (49 CFR 7.17), such information is limited to commercial or financial information that, if disclosed, would either likely cause substantial harm to the competitive position of a business or enterprise or make it more difficult for the Federal Government to obtain similar information in the future.

Applicants seeking confidential treatment of a portion of their applications must segregate the confidential material in a sealed envelope marked ''Confidential Submission of X (the applicant) in Docket DOT–OST–2011–0119,'' and include with that material a request in the form of a motion seeking confidential treatment of the material under 14 CFR 302.12 (Rule 12) of the Department's regulations. The applicant should submit an original and two copies of its motion and an original and two copies of the confidential material in the sealed envelope.

The confidential material should *not* be included with the original of the applicant's proposal that is submitted via *http://www.grants.gov.* The applicant's original submission, however, should indicate clearly where the confidential material would have been inserted. If an applicant invokes Rule 12, the confidential portion of its filing will be treated as confidential pending a final determination. All confidential material must be received by August 2, 2011, and delivered to the Office of Aviation Analysis, 8th Floor, Room W86–310, 1200 New Jersey Ave., SE., Washington, DC 20590.

A template for the confidential motion can be found at *http://ostpxweb.dot.gov/aviation/X–50%20Role_files/smallcommunity.htm.*

[FR Doc. 2011–16727 Filed 6–30–11; 8:45 am]

BILLING CODE 4910–9X–C

Reader Aids

Federal Register

Vol. 76, No. 127

Friday, July 1, 2011

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, JULY

CFR PARTS AFFECTED DURING JULY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

H.R. 2279/P.L. 112–21

Airport and Airway Extension Act of 2011, Part III (June 29, 2011; 125 Stat. 233)

S. 349/P.L. 112–22

To designate the facility of the United States Postal Service located at 4865 Tallmadge Road in Rootstown, Ohio, as the ''Marine Sgt. Jeremy E. Murray Post Office''. (June 29, 2011; 125 Stat. 236)

S. 655/P.L. 112–23

To designate the facility of the United States Postal Service located at 95 Dogwood Street in Cary, Mississippi, as the ''Spencer Byrd Powers, Jr. Post Office''. (June 29, 2011; 125 Stat. 237)

Last List June 28, 2011

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JULY 2011

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	21 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	35 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
July 1	Jul 18	Jul 22	Aug 1	Aug 5	Aug 15	Aug 30	Sep 29
July 5	Jul 20	Jul 26	Aug 4	Aug 9	Aug 19	Sep 6	Oct 3
July 6	Jul 21	Jul 27	Aug 5	Aug 10	Aug 22	Sep 6	Oct 4
July 7	Jul 22	Jul 28	Aug 8	Aug 11	Aug 22	Sep 6	Oct 5
July 8	Jul 25	Jul 29	Aug 8	Aug 12	Aug 22	Sep 6	Oct 6
July 11	Jul 26	Aug 1	Aug 10	Aug 15	Aug 25	Sep 9	Oct 11
July 12	Jul 27	Aug 2	Aug 11	Aug 16	Aug 26	Sep 12	Oct 11
July 13	Jul 28	Aug 3	Aug 12	Aug 17	Aug 29	Sep 12	Oct 11
July 14	Jul 29	Aug 4	Aug 15	Aug 18	Aug 29	Sep 12	Oct 12
July 15	Aug 1	Aug 5	Aug 15	Aug 19	Aug 29	Sep 13	Oct 13
July 18	Aug 2	Aug 8	Aug 17	Aug 22	Sep 1	Sep 16	Oct 17
July 19	Aug 3	Aug 9	Aug 18	Aug 23	Sep 2	Sep 19	Oct 17
July 20	Aug 4	Aug 10	Aug 19	Aug 24	Sep 6	Sep 19	Oct 18
July 21	Aug 5	Aug 11	Aug 22	Aug 25	Sep 6	Sep 19	Oct 19
July 22	Aug 8	Aug 12	Aug 22	Aug 26	Sep 6	Sep 20	Oct 20
July 25	Aug 9	Aug 15	Aug 24	Aug 29	Sep 8	Sep 23	Oct 24
July 26	Aug 10	Aug 16	Aug 25	Aug 30	Sep 9	Sep 26	Oct 24
July 27	Aug 11	Aug 17	Aug 26	Aug 31	Sep 12	Sep 26	Oct 25
July 28	Aug 12	Aug 18	Aug 29	Sep 1	Sep 12	Sep 26	Oct 26
July 29	Aug 15	Aug 19	Aug 29	Sep 2	Sep 12	Sep 27	Oct 27